

Hearing - Volume 3

April 7, 2009

414

1 the AG's office. Since they are a matter of public
2 record at this point that we were free to share them.

3 REPRESENTATIVE ANCHIA: Who did you speak
4 to at the AG's office?

5 REPRESENTATIVE BROWN: My chief of staff
6 can answer that.

7 REPRESENTATIVE ANCHIA: So did you speak
8 to someone at the AG's office?

9 REPRESENTATIVE BROWN: Not personally.

10 REPRESENTATIVE ANCHIA: And so you -- you
11 did not get the direct okay from the -- from the AG's
12 office to read those into the record?

13 REPRESENTATIVE BROWN: I did not speak to
14 him personally.

15 REPRESENTATIVE ANCHIA: Okay. Did you
16 speak to anyone from his office?

17 REPRESENTATIVE BROWN: No. My chief of
18 staff did.

19 REPRESENTATIVE ANCHIA: Were you here
20 during the admonition by the AG related --

21 REPRESENTATIVE BROWN: I was.

22 REPRESENTATIVE ANCHIA: And you were
23 present last night during the admonition?

24 REPRESENTATIVE BROWN: I was.

25 REPRESENTATIVE ANCHIA: What was the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006989

TX_00034131

USA_00021871

Hearing - Volume 3

April 7, 2009

415

1 purpose of you -- What was your intent in reading those
2 into the record?

3 REPRESENTATIVE BROWN: I guess my -- my --
4 I had no intent other than to satisfy the feeling that
5 these ladies had that we had been denied the testimony
6 by these people who have already left.

7 REPRESENTATIVE ANCHIA: But they
8 understood it could jeopardize the investigation,
9 correct?

10 REPRESENTATIVE BROWN: No I would not have
11 I would not have read that if I had thought that it had
12 any bearing.

13 REPRESENTATIVE ANCHIA: Now, but they
14 understood that their testimony could jeopardize --

15 REPRESENTATIVE BROWN: Mr. Anchia, I am
16 not on trial here.

17 REPRESENTATIVE ANCHIA: No, no. I'm
18 asking you questions. I think you've done something a
19 little bit reckless.

20 REPRESENTATIVE BROWN: I answered you, and
21 I have been named by the AG --

22 REPRESENTATIVE ANCHIA: So -- I'm just as
23 concerned about the investigation as you are, so I just
24 want to make sure that I understand what your intent
25 was, and I -- I'm trying to be respectful --



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006990

TX_00034132

USA_00021872

Hearing - Volume 3

April 7, 2009

416

1 REPRESENTATIVE BROWN: I had no ulterior
2 motive.

3 REPRESENTATIVE ANCHIA: -- and to get at
4 it.

5 REPRESENTATIVE BROWN: I -- I was simply
6 sharing information.

7 CHAIRMAN SMITH: And, you know, Rafael, if
8 you'd like to ask the witness a question, then please
9 proceed. I'm going to place some restraints on your
10 ability to cross-examination the colleague in the Texas
11 House of Representatives.

12 REPRESENTATIVE ANCHIA: Well, it was my
13 understanding, Mr. Chairman, that -- that this committee
14 was going to refrain and many of us spoke about that.
15 We had -- We had the opportunity to cross-examination
16 some of the people when we were here. We were asked not
17 to not raise this issue. We were admonished on a
18 regular basis, so it caught me a little bit by surprise,
19 frankly, that we would go in this direction because I --
20 I -- I spoke to the Attorney General's office, and there
21 was a very clear direction, and -- and I -- I think
22 it's -- it's a problem that we -- that we have done
23 this. So I'd like to make that -- that clear.

24 I mean, it's also clear that the
25 delegation that was here got to speak to the Attorney



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006991

TX_00034133

USA_00021873

Hearing - Volume 3

April 7, 2009

417

1 General, so, I mean, they're speaking to officials from
2 the state about their problem. It's not like they
3 haven't been able to speak to anybody. They've also
4 spoken to the Secretary of State's office on this issue,
5 okay? So it's not like they haven't been given an
6 avenue to air their grievances. Now, the fact that they
7 didn't come -- that they were unable to testify here was
8 not our decision. It was the AG's decision.

9 CHAIRMAN SMITH: I think it was their
10 decision in reliance upon advice and recommendations by
11 the Attorney General that they volitionally prevented
12 them from testifying.

13 REPRESENTATIVE ANCHIA: They volitionally
14 left, right, and did not testify.

15 CHAIRMAN SMITH: That's right.

16 REPRESENTATIVE ANCHIA: So let me ask the
17 witness. Do you have any personal knowledge of the
18 events related or that were included in the -- in the
19 affidavits that were read into the record by
20 Representative Brown?

21 MS. LEACH: No, not personally. No. Just
22 from what we've been told by the --

23 REPRESENTATIVE ANCHIA: Do you know -- I'm
24 sorry. I apologize. I didn't mean to cut you off.

25 MS. LEACH: No. I just said not



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006992

TX_00034134

USA_00021874

Hearing - Volume 3

April 7, 2009

418

1 personally. These people, we don't know them.

2 REPRESENTATIVE ANCHIA: Do you know any of
3 the people who did --

4 MS. LEACH: We know the people that came
5 here because we met them, like I said. They -- they --
6 We would meet with them when they first, you know,
7 didn't know who to turn for advice, for a little support
8 and so forth. But other than that, they had told us
9 that they had submitted these affidavits because they
10 wanted, you know, the State's Attorney General to -- to
11 investigate, and we know that they have been, so --

12 REPRESENTATIVE ANCHIA: And you know that
13 it's under current investigation, correct?

14 MS. LEACH: Yes, yes. Sure do. Yes.

15 REPRESENTATIVE ANCHIA: Since last
16 September, correct?

17 MS. LEACH: Right when -- Yeah, because
18 we've been involved with them for over a year now.

19 REPRESENTATIVE ANCHIA: And you've been
20 working with the Attorney General's office as well?

21 MS. LEACH: No. We just told them to --
22 you know, to contact the State Attorney General's
23 office, the DA's office, and we just kind of gave them
24 the advice or, you know, to -- to -- who to contact and
25 see if they could get -- help give their support to look



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006993

TX_00034135

USA_00021875

1 into this matter, and, like I said, we went for a
2 meeting there one time and, of course, the media was
3 interested in stories like that. So when we were there,
4 they had -- they had, like I said, The Monitors covered
5 it like they had maybe like three, four articles in
6 their paper ever. And so, you know, they -- they were
7 there at the meetings and, you know, knew what was going
8 on and so forth, and they reported. We did not. They
9 didn't have interviews with us. You know, we know some
10 of the reporters and all that, but they went and covered
11 the stories. They were interested because, you know, it
12 made good news.

13 REPRESENTATIVE ANCHIA: Yes, it certainly
14 makes good news and sensational news. Do you know Mary
15 Lou Moreno? Do you know who she is?

16 MS. LEACH: I know Mary Lou Ybarra, not
17 Moreno. I don't know Moreno.

18 REPRESENTATIVE ANCHIA: Does she also go
19 by Mary Lou Ybarra and Mary Lou Moreno?

20 MS. LEACH: She might. Yeah. She might,
21 but, I mean, we know her as Mary Lou Ybarra. I don't
22 know whether that's her -- You know, I don't even know
23 that she's married or not. I know that she stays with
24 her mom who's been seriously ill, but we know her as
25 Mary Lou Ybarra. It might be because they use both



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_006994

TX_00034136

USA_00021876

Hearing - Volume 3

April 7, 2009

420

1 names, you know, husband and --

2 REPRESENTATIVE ANCHIA: Was she one of the
3 people who was going to testify today?

4 MS. LEACH: Yes. M-hm.

5 REPRESENTATIVE ANCHIA: And I would have
6 liked to have cross-examined her if she was going to
7 testify today because we've been given some information
8 about her -- her reliability potentially as a witness.
9 Are you aware of any problems with her background?

10 MS. LEACH: Not that I know of, no. I
11 know that she's works -- she works at a daycare center,
12 and, you know, like I said, we just -- we became friends
13 because we were there, and she calls me from time to
14 time, and, like I said, they were very appreciative,
15 just tell us thank you, thank you, and I said, well, you
16 know -- I mean, we were glad to be there and, you know,
17 just extend a helping hand. That's all we do.

18 CHAIRMAN SMITH: Any other questions,
19 members, of this witness? Representative Heflin?

20 REPRESENTATIVE HEFLIN: Ms. Leach, as to
21 the documents that were just read into the record, were
22 you there personally when any of these events took
23 place?

24 MS. LEACH: Not -- I was not. None of us
25 were.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_006995

TX_00034137

USA_00021877

Hearing - Volume 3

April 7, 2009

421

1 MR. HEFLIN: None of you were there?

2 MS. LEACH: No, no.

3 REPRESENTATIVE HEFLIN: So you have no
4 knowledge about any of the facts or circumstances --
5 personal knowledge about these events?

6 MS. LEACH: No. We were just -- they --

7 REPRESENTATIVE HEFLIN: You were told.

8 MS. LEACH: Yes. The people that are
9 involved, Mary Lou and the other people that were here
10 today, they would tell us, you know, this is going on,
11 and basically some of these things that -- that are on
12 the affidavit, but, no, we're -- we're, you know --

13 MR. HEFLIN: Okay.

14 MS. LEACH: =We did not participate
15 in that.

16 CHAIRMAN SMITH: Representative Heflin,
17 please?

18 REPRESENTATIVE HEFLIN: Mr. Chairman, I
19 just have one quick question, and I'm trying to be as
20 delicate about this as I can. But I guess my curiosity
21 was if the same attorney that gave us the advice today
22 is the one that okayed this tonight.

23 CHAIRMAN SMITH: Yes.

24 REPRESENTATIVE HEFLIN: It was the same
25 attorney?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006996

TX_00034138

USA_00021878

Hearing - Volume 3

April 7, 2009

422

1 CHAIRMAN SMITH: Yes.

2 REPRESENTATIVE HEFLIN: So at this point I
3 guess I would have to ask any of the OWLS -- I know
4 they're not up here for questioning -- if they know the
5 persons involved in this and have personal knowledge of
6 any of these events, if you would -- can we bring them
7 back up?

8 MS. LEACH: I can answer. You know -- You
9 know, it's the same answer, but, you know, you can ask
10 them.

11 REPRESENTATIVE HEFLIN: You may come back
12 up if you wish to.

13 CHAIRMAN SMITH: And as you come up, would
14 you please identify yourself for the record? One at a
15 time, please.

16 MS. McCLAUGHERTY: Vern McClaugherty.

17 REPRESENTATIVE HEFLIN: Ms. McClaugherty,
18 as to the petitions that you heard read a few moments
19 ago, do you have any personal knowledge of any of the
20 events that are happening surrounding these documents?

21 MS. McCLAUGHERTY: No.

22 REPRESENTATIVE HEFLIN: Okay. All right.
23 Now, you understand that two of these documents are not
24 sworn documents. They're just signed. The other two --
25 Actually, the other three actually are sworn documents



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_006997

TX_00034139

USA_00021879

Hearing - Volume 3

April 7, 2009

423

1 before a notary.

2 MS. McCLAUGHERTY: I've never seen --

3 REPRESENTATIVE HEFLIN: You've never seen
4 them?

5 MS. McCLAUGHERTY: No.

6 REPRESENTATIVE HEFLIN: Okay.

7 MS. McCLAUGHERTY: I held them for a few
8 minutes this afternoon because I used them to write
9 something on a note, but I have not looked at them, no.
10 We have heard the people tell us the story and that's
11 why they came here today was so that you could ask
12 questions about the way he said he would like to have
13 asked them. They were here to answer them and they were
14 stopped.

15 REPRESENTATIVE HEFLIN: I'm going to
16 address that same issue in just a second.

17 MS. McCLAUGHERTY: All right.

18 REPRESENTATIVE HEFLIN: So next?

19 CHAIRMAN SMITH: Okay. Just a minute.
20 Could you please come back before the next witness?

21 REPRESENTATIVE HEFLIN: I'm sorry.

22 MS. McCLAUGHERTY: Me?

23 CHAIRMAN SMITH: No, no. State your name.
24 No -- Yes, Mrs. McClagherty.

25 MS. McCLAUGHERTY: I'm Vern.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006998

TX_00034140

USA_00021880

Hearing - Volume 3

April 7, 2009

424

1 CHAIRMAN SMITH: Okay. And you're
2 testifying on behalf of OWLS in favor of Senate Bill
3 362.

4 MS. McCLAUGHERTY: Yes, sir.

5 CHAIRMAN SMITH: Okay. What was your
6 name?

7 MS. McCLAUGHERTY: Vern. You want the
8 full name?

9 CHAIRMAN SMITH: Yes, ma'am.

10 MS. McCLAUGHERTY: Altalla (phonetic) Vern
11 Carter McClaugherty, if you want my legal complete name.
12 I go by Vern McClaugherty.

13 REPRESENTATIVE HEFLIN: We just need the
14 name you testified under.

15 MS. McCLAUGHERTY: Well, okay. I'm just
16 letting you know if you wanted it all. I was ready.

17 CHAIRMAN SMITH: Apparently Mr. Heflin has
18 determined he doesn't need to hear from all of you, so
19 thank you very much.

20 REPRESENTATIVE HEFLIN: Right.

21 MS. McCLAUGHERTY: Okay. He wants certain
22 ones?

23 REPRESENTATIVE HEFLIN: I guess I'm going
24 to follow Mr. Pena's -- I think I'm going to object to
25 these being entered into the record or read into the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_006999

TX_00034141

USA_00021881

Hearing - Volume 3

April 7, 2009

425

1 record because we were denied basically the right to
2 cross and ask questions of these witnesses.

3 CHAIRMAN SMITH: Let me just state no
4 record be --

5 REPRESENTATIVE HEFLIN: I understand.

6 CHAIRMAN SMITH: There is no evidentiary
7 record. This is not a trial. This is a public hearing
8 which a public document was read, and if anybody else on
9 this committee wishes to read a public document that is
10 relevant to the purpose of this hearing that is of any
11 reasonable length because we want as much information as
12 we can get out into the public in a public hearing that
13 does not jeopardize a prosecution, you'll be allowed to
14 do so. If this were a trial rather than a legislative
15 hearing, there would be a legitimate point. If there
16 was an evidentiary record, an affidavit was being
17 submitted as evidence, that would be a legitimate point,
18 simply not the proceeding in which we find ourselves,
19 and, therefore, this is no legitimate complaint request
20 reading a public document into a public hearing.

21 REPRESENTATIVE HEFLIN: I would still --

22 CHAIRMAN SMITH: But those objections by
23 my colleagues are duly noted.

24 REPRESENTATIVE HEFLIN: Thank you very
25 much.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007000

TX_00034142

USA_00021882

Hearing - Volume 3

April 7, 2009

426

1 CHAIRMAN SMITH: You bet.

2 REPRESENTATIVE VEASEY: Mr. Chairman?

3 CHAIRMAN SMITH: Yes.

4 REPRESENTATIVE VEASEY: I would like to
5 read a public document to go that the record. I've been
6 wanting to do this for a while and was waiting for the
7 right segue, and you just opened the door for me.

8 CHAIRMAN SMITH: How long is this going to
9 take? I said reasonably --

10 REPRESENTATIVE VEASEY: It is always very
11 reasonable.

12 CHAIRMAN SMITH: Okay.

13 REPRESENTATIVE VEASEY: It's a few
14 paragraphs.

15 CHAIRMAN SMITH: All right. Thank you.
16 Please proceed.

17 REPRESENTATIVE VEASEY: This is a
18 testimony in opposition to Senate Bill 362 submitted by
19 Boyd L. Richey of Young County. He was the chairman of
20 the Texas Democratic Party. And the letter reads: As
21 chairman of the state political party, I'm always trying
22 to get Texans engaged and involved in our election
23 process. In 2008, we were encouraged to see many first
24 time voters take an interest in the process. This is
25 especially the case among our young people who can --



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007001

TX_00034143

USA_00021883

1 who can be notoriously difficult to engage in politics.
2 In last year's primary election, Texas youth voter
3 turnout rate nearly tripled from the 2000 primary
4 election. It's encouraging to see more Texas voters
5 participating because the right to choose our elected
6 representatives in free and open elections is the most
7 fundamental cornerstone of our American democracy.

8 However, numerous studies indicate that
9 certain segments of the population are less likely to
10 have the ID required by this proposed Voter ID
11 legislation. While we should do everything important to
12 encourage voting, Voter ID registration will make it
13 harder for every Texan to vote by placing new
14 bureaucratic hurdles between Texans and the ballot box.

15 While responsible lawmakers want to make
16 it harder for Texans to vote, there's no evidence of
17 voter impersonation which is the only type of voter
18 fraud this Voter ID legislation would address. The only
19 rationale then is that this is an -- this is a desperate
20 attempt to try and keep failed Republican leaders in
21 office by suppressing the vote of groups that tend to
22 vote democratic. The harder it is to vote, the harder
23 it is for Texans to demand and get the change we need.
24 Just as there are more important issues facing our state
25 than phantom voting fraud epidemic, there are more --



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007002

TX_00034144

USA_00021884

Hearing - Volume 3

April 7, 2009

428

1 more pressing election items pending in this committee,
2 and the fact that the Republican elections committee
3 members have prioritized partisan Voter ID legislation
4 at the expense of critical issues is revealing of their
5 own partisan extremism.

6 Republican photo Voter ID legislation
7 places partisanship over progress. Texas Republicans
8 have given this costly and unnecessary legislation top
9 priority status while ignoring real issues caused by
10 this Republican recession. Texans face far more urgent
11 problems like lack of access to quality affordable
12 health care, the rising cost college tuition and
13 skyrocketing insurance and utility rates.

14 These are the issues folks in my community
15 are concerned with, and I suspect yours as well. Let's
16 do right by Texans to preserve free and fair elections
17 and get to work on solving some actual problems. I
18 strongly urge you to vote against this legislation as it
19 is bad for all Texans. And I have the testimony, and
20 I'll give it to the clerk, also the names of 5,000
21 individuals that --

22 CHAIRMAN SMITH: Please, I'm trying to be
23 fair about this.

24 REPRESENTATIVE VEASEY: -- against --
25 state an opposition to the bill. Mr. Chairman, thank



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007003

TX_00034145

USA_00021885

Hearing - Volume 3

April 7, 2009

429

1 you.

2 CHAIRMAN SMITH: Thank you, Representative
3 Veasey.

4 UNIDENTIFIED SPEAKER: Mr. Chairman, I'd
5 like to also make a statement in the record in
6 opposition to the reading into the record of the -- of
7 the affidavits which we were not able to cross-examine
8 and state my concerns about possibly hampering the
9 Attorney General's investigation citing, again, his
10 admonitions from last night and today related to --
11 related to the ongoing investigation in Progresso.

12 CHAIRMAN SMITH: Please.

13 UNIDENTIFIED SPEAKER: I would also like
14 to note just for the record, Mr. Chairman, that the
15 Progresso allegations relate predominantly to voter
16 intimidation and poll worker and official misconduct and
17 voter suppression bribery and in some cases, official
18 intimidation of voters. Thank you.

19 CHAIRMAN SMITH: So noted. Anybody else?
20 Chair calls Joey Cardenas? Cardenas. Yes, sir.
21 Representing LULAC and speaking against testifying
22 against Senate Bill 362; is that correct?

23 MR. CARDENAS: That is correct, sir.

24 CHAIRMAN SMITH: Please state your name
25 and who you represent.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007004

TX_00034146

USA_00021886

Hearing - Volume 3

April 7, 2009

430

1 MR. CARDENAS: Joe Cardenas, the third,
2 representing the state of Texas for the organization of
3 LULAC. LULAC is the -- the -- this state's premiere
4 civil rights organization. It is its oldest Hispanic
5 civil rights organization as well. Speaking on behalf
6 of the thousands of members that belong to this
7 organization that vote in both the Republican and the
8 Democratic party, we're unanimously against this bill.
9 We don't believe that this bill will serve any purpose
10 other than to hinder people from going out to vote. To
11 put a further hindrance and a hurdle in front of the
12 voters of the state of Texas, we believe is simply
13 wrong.

14 Given that the State of Texas is
15 increasingly becoming Hispanic, we most -- we most of
16 all feel offended that this bill will even be introduced
17 as legislation. Recalling the days when we had to pay
18 poll taxes in order to participate and the electoral
19 process of 1960s and -- and certainly well before that,
20 this is exactly what that smells like to us. This is a
21 regressive law if passed, and we want you to know that
22 this to us is an election issue. This is an issue that
23 we will well remember at the next election cycle. We
24 will go out and we will continue to increase our voter
25 participation. We will go out and we will continue to



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007005

TX_00034147

USA_00021887

Hearing - Volume 3

April 7, 2009

431

1 register more and more voters. This past year, I'm glad
2 to tell you that we registered 4,000 new voters here in
3 Austin area as well.

4 LULAC feels very strongly about voter
5 fraud. We are the organization that people in this
6 state go to when they suspect voter fraud. When they
7 suspect fraud at county government, when they suspect
8 fraud at school districts. They come to us and we look
9 into that. We send the information. We -- We send the
10 information to our attorneys (inaudible) in some cases
11 that review that information to let us know whether
12 there is an actual cause, and I'm here to let you know
13 that, yes, there are cases of voter fraud and, yes, we
14 have had some, but you would lead us to believe that
15 this is a state-wide epidemic, and it is not.

16 I am also an election judge back home, and
17 I'm happy to let you know that apparently I happen to be
18 one of the competent counties that can run an election.
19 Because in my county we don't have voter fraud. There's
20 a long process that people must follow in order to vote.
21 We have voter rolls that we have to check aside from the
22 voter card that they must present different judges,
23 different clerks, folks. We're not incompetent.

24 If anything -- If anything, I think that
25 you ought to be thanking those volunteers who volunteer



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007006

TX_00034148

USA_00021888

Hearing - Volume 3

April 7, 2009

432

1 in all of our counties to run those elections because it
2 is an arduous process, and it is a very lengthy process
3 to sit there literally 12 hours a day and then at the
4 very end having to do paperwork that in some cases takes
5 an hour. Thank you.

6 CHAIRMAN SMITH: Thank you very much. Any
7 questions, members? Any questions, members? Thank you
8 very much. Appreciate it. Some of you may not have
9 been here 12 hours ago when this thing started, and I
10 asked all of the members in the congregation to -- to
11 refrain -- I said you can make any facial expressions
12 you would like to make. I'll even let you stick your
13 tongue out, but please, please refrain from any verbal
14 indications of whether you agree or disagree with the
15 witness, otherwise, it results in something we don't
16 want it to result in.

17 At this time the chair calls Patrick --
18 Patricia Elaine Ignacio. Are you present? Calling
19 once. Calling twice. I'm going to show her as
20 testifying -- as not testifying, but being in favor. At
21 this time the chair calls Kelly McDonald. Kelly
22 McDonald, you're here? Testifying against Senate Bill
23 362 on behalf of yourself. Please state your name and
24 who you represent.

25 MS. McDONALD: Kelly McDonald. I'm



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007007

TX_00034149

USA_00021889

Hearing - Volume 3

April 7, 2009

433

1 representing myself. I'm from Waco, Texas, McLennan
2 County, and I appreciate my name being called finally.

3 CHAIRMAN SMITH: Sorry it took so long.

4 MS. McDONALD: I waded through my stuff
5 yesterday and all of today and for the senate hearing as
6 well. So I work as a community organizer in McLennan
7 County for political reasons to help educate voters, and
8 I encourage voter participation and train poll watchers.
9 I've worked in Texas and I worked in Florida as a
10 campaign worker, and I'm not opposed to having more
11 stringent rules to protect the integrity of the system,
12 but there are many aspects of Senate Bill 362 that
13 concern me, mostly, the lack of time and the lack of
14 funding to educate voters on the changes, and,
15 Mr. Chairman, I saw your name quoted today in the Waco
16 Trib as also wanting to extend the amount of time that
17 we have to educate voters before these changes are
18 implemented.

19 And a lot of the concern that I have in
20 the reading of the Senate Bill 362 is that it seems that
21 the responsibility falls more on like community
22 organizers and nonprofit organizations to do this
23 educating and less on our election officials in our
24 state, and I know that in some cases, some of the
25 organizations like the NAACP and AARP and LULAC, there's



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiredepositionsolutions.com

JA_007008

TX_00034150

USA_00021890

Hearing - Volume 3

April 7, 2009

434

1 not enough volunteers for those organizations to really
2 get to all the people that we would need to educate in
3 the amount of time that's allotted.

4 And then I'm also worried about -- Like I
5 live in a rural area south of Waco, and there's not
6 organizations sustained to reach out to the low income
7 voter in the rural community, and so I'm wondering how
8 we're going to educate them under the writing of the
9 current bill. And then my second concern with 362 is
10 that it seems to rely on the poll worker to -- to have a
11 lot of discretion and to make judgments on the validity
12 of the IDs and the documentation that's required and
13 then also as a community organizer, we organize
14 rights -- rights to the polling places for disabled and
15 elderly and the homeless and the poor, and for us to
16 have to arrange transportation for this same group of
17 people to get Voter ID is going to place an additional
18 burden on a lot of volunteers, and I just don't think
19 that we have adequate people to get that done.

20 And then last night when Michael Otrrell
21 (phonetic) from Florida came and was speaking to the
22 committee, I worked in Florida in the last election and
23 there were some issues with that that I wanted to
24 address because it sounded like you all may be looking
25 at Indiana and Georgia and Florida as to ways to get



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007009

TX_00034151

USA_00021891

Hearing - Volume 3

April 7, 2009

435

1 some legislation passed here. And one thing that the
2 vice-president of the student Democrats mentioned today
3 was the address not matching, and we had several people
4 that were turned away in Florida because of that very
5 reason, so I think that the wording needs clarification
6 on any bill that is sent forth here.

7 And, also, it concerns me when you were
8 questioning Mr. Otrrell as far as how Florida does the
9 ballot by mail because there there's no cause required
10 for you to request a ballot by mail, and I know that's
11 not how it is in Texas now, but if you do re-look at
12 that and address it, I encourage you to make sure that
13 it stays in Texas where you need to have a reason for
14 doing a ballot by mail.

15 And, also, in Florida, you don't have to
16 be deputized to carry a filled-out ballot. I know that
17 we were having volunteers go and pinning up ballot by
18 mails and bringing them and then I have some ideas on
19 how to prevent voter impersonation fraud and some
20 possible ideas to toss around about absentee ballots.

21 CHAIRMAN SMITH: Okay. Thank you. That
22 will give the members an opportunity to -- to ask any
23 questions, but I'm interested in those subjects, so why
24 don't you answer those questions for me. Thank you.

25 MS. McDONALD: Okay. And let's see.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007010

TX_00034152

USA_00021892

Hearing - Volume 3

April 7, 2009

436

1 There's the thumbprint. If we could maybe put the --
2 the responsibility on the elections offices to -- to
3 help instead of requiring a photo ID of the voter to
4 either, you know, take a photograph or have a thumbprint
5 when people go and vote and maybe that wouldn't work for
6 the first one or two election cycles, but if we started
7 doing it now, then eventually that would possibly be a
8 way to prevent voter impersonation fraud.

9 CHAIRMAN SMITH: Yeah. Let me just say,
10 you know, that certainly is a way to do that. My sense
11 is that you get some pretty significant opposition from
12 both the left and the right.

13 MS. McDONALD: May I ask what the
14 reasoning is?

15 CHAIRMAN SMITH: Just Libertarian concerns
16 about being required to give a thumbprint whenever you
17 vote. But I'm open -- You know, I'm not much of a
18 Libertarian, so, you know, those aren't my concerns as
19 much. I'm more interested in honest elections. And
20 -- But I'm just -- I'm just letting you know. I
21 appreciate the suggestions because that certainly would
22 be a mechanism by which we would enhance the security of
23 our polls if we required fingerprints. The question --
24 question is whether we create such opposition to the --
25 We're politicians. We have to consider not only policy,



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007011

TX_00034153

USA_00021893

Hearing - Volume 3

April 7, 2009

437

1 but does the policy that you would recommend allow us to
2 get the votes. So, anyway, continue. You don't have to
3 worry about that.

4 MS. McDONALD: Okay.

5 CHAIRMAN SMITH: You just get to think
6 about what --

7 MS. McDONALD: Or what about taking a
8 photograph --

9 CHAIRMAN SMITH: -- about what's right and
10 what's wrong.

11 MS. McDONALD: -- of the person that votes
12 and then that would also allow for a method of
13 prosecution if it was shown that somebody voted in
14 somebody else's name. You know, I mean, we have the
15 capability of taking photographs and storing large
16 numbers of photographs and then even a future election.

17 CHAIRMAN SMITH: As they vote, you mean?

18 MS. McDONALD: Yes. As they sign in to
19 vote, take their photograph and then there could even be
20 a -- a digital image that's printed out for them to
21 compare to in further elections further down the road.

22 CHAIRMAN SMITH: That would secure it as
23 well. There would probably be a fiscal note on that,
24 but that's an interesting idea. There's lots of ways to
25 have more secure elections, and you are providing us



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007012

TX_00034154

USA_00021894

Hearing - Volume 3

April 7, 2009

438

1 with some.

2 MS. McDONALD: And it wouldn't -- And it
3 wouldn't put the responsibility on the voter or
4 community organizers or nonprofits to educate the voter
5 because the voters wouldn't actually have to do anything
6 different. And --

7 UNIDENTIFIED SPEAKER: Can I ask a quick
8 question about the photograph?

9 CHAIRMAN SMITH: Yes.

10 UNIDENTIFIED SPEAKER: We currently take
11 people's photographs if they get a concealed hand -- or
12 the state does if they get a concealed handgun license,
13 state ID or a driver's license, right, and we store
14 large files of those photographs already at the state
15 level. Would your proposal be for every voter or for
16 every voter that doesn't have the requisite ID or that
17 states an affidavit, for example, that, hey, I don't
18 have a photo ID? So I could see where we would not want
19 to take an additional picture of a voter who already is
20 showing a photo ID, right, but maybe for those who did
21 not have it saying, hey, I don't have it, you take a
22 photograph of them and maybe you present them with photo
23 ID for the next election so they will have something. I
24 mean, is that part of the plan?

25 MS. McDONALD: I thought about that. I



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007013

TX_00034155

USA_00021895

Hearing - Volume 3

April 7, 2009

439

1 was thinking more of something that was stored within
2 the election system and doesn't require someone to
3 replace it or keep up with it. It will put the
4 responsibility more on the system and less on the voter,
5 but I thought about what you were saying as well, and I
6 would certainly prefer what you're proposing to 362.

7 CHAIRMAN SMITH: Thank you.

8 MS. McDONALD: And then I've been really
9 tossing around a lot of ideas the last couple of days
10 listening to this is what we could possibly do about
11 absentee ballots.

12 CHAIRMAN SMITH: I'm going to have to ask
13 you to be as succinct as possible out of respect for the
14 rest of the people.

15 MS. McDONALD: Okay. This is my very last
16 point, and I don't know if these are valid suggestions
17 or not, but I just want to propose them as
18 possibilities. It was already mentioned about sending a
19 mobile voting van out to people that do the absentee
20 ballots. I was thinking of even sending a deputized
21 worker out to -- to pick up the ballots and to -- to see
22 some sort of ID or one of the documents that's
23 mentioned. And then as far as out of town, turning
24 something into a like the Federal post, if you're doing
25 a ballot by mail to not just send it in the mail mail



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007014

TX_00034156

USA_00021896

Hearing - Volume 3

April 7, 2009

440

1 because you can do fraud that way, I think. But to turn
2 it into a Federal place like the post office or military
3 post or a public school or something where somebody
4 could verify your identity before you mailed it in. I
5 don't know how easy those would be, but very quickly,
6 and then I will get off.

7 That reminds me that that might be another
8 way, and we do end up with something as awful as Senate
9 Bill 362, but to offer more options for people to get
10 that Voter ID instead of just going to the DPS office
11 and have it where they could go to a public school or a
12 post office or something that was more -- more
13 accessible to them in order to obtain that ID.

14 CHAIRMAN SMITH: I do very much appreciate
15 your very constructive suggestions. Members, any
16 questions? Representative Brown?

17 REPRESENTATIVE BROWN: I just have one
18 question. Yes. Thank you for your comments. I've been
19 trying to figure out how the thumbprint would work. The
20 county would store thumbprints for all the voters and
21 then as the voter came in, they would thumbprint again
22 and compare that. Is that how you see it working?

23 MS. McDONALD: Well, I think that since
24 we're already using the thumbprint, when we go and get
25 the Texas ID or the Texas driver's license and most



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007015

TX_00034157

USA_00021897

Hearing - Volume 3

April 7, 2009

441

1 of those would already be on record, and then if
2 everyone gave it when they voted, then you would then
3 have that additional record. And I was thinking more of
4 use to prosecute somebody if there was a case of voter
5 fraud and just to help preserve the integrity of the
6 system without putting the burden on the voter.

7 REPRESENTATIVE BROWN: Okay. So you
8 wouldn't make the comparison then when they came in to
9 vote?

10 MS. McDONALD: I don't even know how
11 possible that is.

12 REPRESENTATIVE BROWN: I think it would
13 really slow the process down.

14 CHAIRMAN SMITH: I think it would be a
15 mechanism by which someone could investigate after the
16 fact if there was a reason to do so.

17 MS. McDONALD: That's what I was thinking.

18 CHAIRMAN SMITH: And I would suspect if
19 you did it, you'd have a box by where you presently
20 sign.

21 REPRESENTATIVE BOHAC: I have a question.

22 CHAIRMAN SMITH: Yes. Representative
23 Bohac?

24 REPRESENTATIVE BOHAC: Hi there. You had
25 mentioned that you help out -- you help people as a



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007016

TX_00034158

USA_00021898

Hearing - Volume 3

April 7, 2009

442

1 community organizer and you help to go vote, and, you
2 know, we do require Voter ID now in the sense that you
3 have to keep up with that card. And you made a comment
4 to the committee that really don't want to have --
5 really don't want to keep up with too many items. There
6 already is something you have to keep up with, that
7 voter registration card. What we're saying is get rid
8 of that card. You don't got to keep up with it anymore.
9 Just use the ID that you have, and if you -- and if you
10 don't have the ID, we're going to help you get one. And
11 I would assume for most people, you especially, if you
12 are going to receive help from anyone, you would have to
13 be able to prove up who you are. Are you saying that
14 the group of people that you help do not have access to
15 a photo ID?

16 MS. McDONALD: No, sir. Actually, I'm not
17 saying that at all. I can -- I do believe in the
18 statistics that I keep hearing that there is a
19 population of -- of around 2 percent that don't have
20 photo ID. But I have not personally carried anyone to
21 the polls that hasn't been able to present some form,
22 and I really like the part of Representative Brown's
23 HB125 that makes a provision in there for low income
24 voters.

25 CHAIRMAN SMITH: We need to make sure we



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007017

TX_00034159

USA_00021899

Hearing - Volume 3

April 7, 2009

443

1 keep the testimony on this piece of legislation, which
2 is the Senate Bill at this point in time, and we will
3 have testimony later or today tomorrow or the next day
4 on Representative Brown's bill.

5 MS. McDONALD: Well, to answer your
6 question more directly then, I believe that there are
7 some low income voters that maybe don't go vote because
8 they don't have either their registration card or ID.

9 MR. BOHAC: And for that group of vote, I
10 was -- we have to figure out a strategy on this
11 committee because I think everyone's heart is in the
12 right place. I really do. I mean, this has been a
13 terrific learning experience for everyone on this
14 committee. I think everyone has been all ears really
15 trying to come up with -- with solutions and not just
16 throw wrenches or throw bombs at one another. That has
17 not been the case.

18 MS. McDONALD: For this committee, I
19 agree. For Senate Bill 362, I disagree. I think that
20 was suppression.

21 REPRESENTATIVE BOHAC: I want to thank you
22 for your testimony.

23 CHAIRMAN SMITH: We all thank you for your
24 testimony, and if there are no questions, I'll take my
25 next witness. Thank you very much.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007018

TX_00034160

USA_00021900

Hearing - Volume 3

April 7, 2009

444

1 At this time the chair calls Phillip Laird
2 representing himself. You here, Phillip? Walk in --
3 Are you Phillip? Okay. Phillip's not here, so I'm
4 going to show Phillip as not testifying but as being
5 shown in favor of the bill. And just for your
6 information, we are calling these people I am told in
7 the order that you signed up with the exception of a few
8 witnesses at the very beginning of the day, and that
9 gentleman who I let move to the front of the line
10 because he told me that he thought he would be
11 disqualified from voting. So as we get closer till
12 2 o'clock in the morning, some of the rest of you may
13 try that. I'm sorry?

14 At this time the chair calls Steve
15 Whichard speaking for himself against Senate Bill 362.
16 Welcome.

17 MR. WHICHARD: Thank you.

18 CHAIRMAN SMITH: State your name and who
19 you represent.

20 MR. WHICHARD: Okay. I'm Steve Whichard,
21 and I'm representing myself and the rest of Texas
22 voters.

23 CHAIRMAN SMITH: All of them?

24 MR. WHICHARD: Yes. I'm actually one
25 those that would be disenfranchised by this bill. I am



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007019

TX_00034161

USA_00021901

Hearing - Volume 3

April 7, 2009

445

1 homeless. I'm not illiterate, even though that's one of
2 the questions that was asked about helping the homeless
3 get IDs earlier by Representative Brown. I carry most
4 of the things I own -- since I lost my job and lost my
5 home I carry in this bag or I have a lock at the Arch,
6 one with a combination lock and one with another lock
7 that has a key. I have my wallet. If my wallet
8 disappears that has my Social Security card and my
9 driver's license, if this bag that has my voter
10 registration card disappears, and if someone brakes into
11 the locker and my birth certificate is stolen, I have
12 nothing. And it can happen. I've seen it happen there
13 all within one week to one person.

14 To get a birth certificate from North
15 Carolina, to get another copy of my Social Security card
16 in time to vote, I'd have to hope that the robbery
17 happened three months before the election. Otherwise, I
18 would be a Texas voter that could not vote.

19 I skipped school the day I turned 18 to
20 register to vote, and I'm 50 years old. I've been
21 active in politics and civil rights since I was 8 years
22 old, and for you to try with this bill to disenfranchise
23 the homeless, the poor, the elderly and minorities is
24 nothing but partisan voter suppression. Next, you'll
25 be -- when I'm walking down the street you will have



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007020

TX_00034162

USA_00021902

Hearing - Volume 3

April 7, 2009

446

1 someone asking me to show my papers so that I can walk
2 through the City of Austin. This is not helping stop
3 voter fraud.

4 You've talked about voter fraud all day
5 long because I've been here. I've listened. It's all
6 mail-in ballots. You have no proof of any voter fraud
7 where someone goes in and votes as someone else. So
8 that's not an issue in this state. So why is this the
9 priority issue instead of funding schools, Chip, taking
10 care of the Texas roads, taking care of the homeless
11 problem. Because believe it or not, as a college
12 graduate, I was two paychecks away from being homeless
13 and it happened, and there are a lot of others here in
14 Texas as the economy gets worse and our unemployment
15 gets higher, they will be in the same situation I'm in,
16 but you don't care about them. You only care about this
17 partisan bill. Thank you.

18 CHAIRMAN SMITH: Any questions for this
19 witness, members? I don't see any. Thank you.

20 At this time the chair calls Roxanne
21 Lewis. Roxanne, are you here? Don't see her. So I --
22 I'm going to show her in favor of Senate Bill 362, but
23 did not testify.

24 At this time the chair calls Vanessa
25 Edwards Foster? Are you here? Is that a yes? Okay.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007021

TX_00034163

USA_00021903

Hearing - Volume 3

April 7, 2009

447

1 And as you're coming up, I believe she's going to
2 testify on behalf of Texas Gender Advocacy & Information
3 Network against Senate Bill 362. If you would please
4 state your name and who you represent.

5 MS. FOSTER: Again?

6 CHAIRMAN SMITH: Yes, please, if you don't
7 mind.

8 MS. FOSTER: All right. My name is
9 Vanessa Edward Foster, and, again, I'm the director of
10 the Texas Gender Advocacy & Information Network. First
11 off, I just want to applaud you for -- for attempting to
12 try and find a way to end voter fraud. I am a -- a long
13 time actually election judge there in Houston, Harris
14 County, and one of the things that you know is dear to
15 my heart is to find a way to ensure that everybody
16 votes, but you have one vote, one person.

17 However, that said, I also oppose this
18 bill for a couple of different reasons. There's
19 actually four different things within the text of the
20 bill that I have issues with. One of them specifically
21 that especially as election judge, I find a very
22 probable extra way of actually having fraudulent vote or
23 more than one vote for one person. But what we are
24 trying to do here is to end any potential fraud, any
25 potential individuals voting when they are not



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007022

TX_00034164

USA_00021904

Hearing - Volume 3

April 7, 2009

448

1 registered to vote.

2 And, for instance -- say, for instance,
3 someone walks in with a Voter ID and on the photo ID,
4 the individual is black, but the photo ID shows someone
5 who is white. They will not be allowed to vote,
6 correct? Now, you have someone that's 25 years old
7 like -- say like a skate punk with his long hair kind of
8 tied back, and he walks in with a Voter ID and a photo
9 ID of someone that is 75 years old. He's not going to
10 be allowed to vote.

11 I am a transsexual, and one of the things
12 that is not addressed adequately in Senate Bill 362 are
13 for individuals who transition from one gender to
14 another, and I know because I've had this situation
15 happen to me in 1996 when I went to go vote early vote.
16 What happens is there are standards of care that are not
17 taken into account for here. Individuals change
18 literally. Their appearance changes. So what happens
19 if someone who walks in with a Voter ID that says Kathy
20 and a photo that is female, but it's obviously someone
21 who's been on testosterone for a while and has receding
22 hairline, and a beard and maybe even some chest hair
23 showing. Do you think they're actually going to be
24 allowed to vote?

25 For Senator Fraser, his words were that he



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007023

TX_00034165

USA_00021905

Hearing - Volume 3

April 7, 2009

449

1 wanted to ensure in the senate testimony that the
2 individual who is presenting the registration did not
3 have a stolen registration. They really wanted to make
4 sure that that person was who they said that they were.
5 In fact, Senator Shapiro said the same thing. They're
6 just trying to make sure that everyone's ID matches who
7 they are, and, in fact, Representative Bonnen, you
8 mentioned that you wanted the facts on this, that we
9 needed to stick to the facts and the point.

10 The facts and the points are that for
11 individuals who transition from one gender to the other
12 in the State of Texas, we have no uniform code on that,
13 and we've had difficulties in trying to address this now
14 for seven sessions. This is our eighth. For 16 years
15 we've been trying it, and we've got another bill again,
16 but it's languishing. I don't really, you know, presume
17 that that's actually going to pass by the time this bill
18 actually makes it into law. But the issue is that we
19 are actually in essence disenfranchising anyone who's
20 transsexual, who's transitioning from one gender to the
21 other by requiring a photo ID at the vote -- especially
22 when that photo ID does not match their presentation and
23 this is something that --

24 CHAIRMAN SMITH: Time's up, if you don't
25 mind. At this point I want you to know I think there's



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007024

TX_00034166

USA_00021906

Hearing - Volume 3

April 7, 2009

450

1 a lot of sympathy with your position on this committee.
2 There's some uncertainty of what the Senate Bill does in
3 that regard and the extent to which you may be correct
4 in terms of how you read it. It would be my hope that
5 the house language would be perfectly clear, and let me
6 just tell you why.

7 We took a trip -- My family took a trip
8 overseas where I was in the woods for three or
9 four weeks, and I was in China trying to get from one
10 province to another, and my hair was all out of whack,
11 my beard was all grown, and I had some Chinese guy who
12 couldn't speak my language, and I couldn't speak his.
13 And he was looking at me and he was looking at that
14 picture, and he was looking at me, looking at that
15 picture.

16 I do agree with you that it could be
17 create significant problems if we have part-time poll
18 workers trying to decide whether you look enough like
19 your picture to be able to cast a regular ballot or
20 provisional ballot. Obviously, to the extent that
21 anybody suspects fraud, they would be able to report it
22 to the proper authorities.

23 MS. FOSTER: But it's just the picture
24 though.

25 CHAIRMAN SMITH: But what they would not



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007025

TX_00034167

USA_00021907

Hearing - Volume 3

April 7, 2009

451

1 be able to do is prevent you from exercising your
2 constitutional right to cast a ballot based on a
3 discretionary decision of whether or not you have the
4 same amount of facial hair, the same amount of weight,
5 or even the same gender as you did at the time the
6 photograph was taken.

7 MS. FOSTER: Gender and me.

8 CHAIRMAN SMITH: So I think -- I think
9 those concerns can -- and to the extent that the rest of
10 the committee agrees with me -- will be addressed in the
11 legislation coming out of this committee. So we
12 appreciate your testimony. Are there any other
13 questions from any of the members at this time? I don't
14 hear any. Thank you very much.

15 The chair calls H. Dale Jennings. Are you
16 here, Mr. Jennings, because if you are not here, I'm
17 going to show you as not testifying but be in favor of
18 Senate Bill 362.

19 Russell Duerstine? Not here? He's not
20 going to testify, but is in favor of Senate Bill 362.

21 The chair calls Madeline Dewar, speaking
22 on behalf of herself against Senate Bill 362. Please
23 state your name and who you represent.

24 MS. DEWAR: My name is Madeline Dewar.
25 I'm from San Antonio, and I am against Senate Bill 362.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007026

TX_00034168

USA_00021908

Hearing - Volume 3

April 7, 2009

452

1 CHAIRMAN SMITH: Speaking on behalf of
2 yourself?

3 MS. DEWAR: Speaking on behalf of myself,
4 yes.

5 CHAIRMAN SMITH: Okay.

6 MS. DEWAR: I'd like to preface my
7 testimony with the statement that I feel much more
8 positive and comfortable with the overwhelming majority
9 of this committee including your conduct, Mr. Chairman,
10 than I felt during the 20 plus hours I sat waiting to
11 testify in the senate -- I mean, this is -- this is
12 warming my heart, and I do feel that most of you,
13 Republican and Democrat, are really trying to do
14 something.

15 CHAIRMAN SMITH: Thank you.

16 MS. DEWAR: You know, my testimony is that
17 I live in a working class barrio in San Antonio. Many
18 of my neighbors work two and sometimes three jobs.
19 Others are elderly and on very limited incomes. Even if
20 the photo ID were made available entirely free, the
21 documents required to obtain those IDs are not. If you
22 choose food for your children or medicines for yourself
23 against obtaining birth certificates or other documents,
24 what would you do? What would your priority be? Just
25 taking time off from work from a minimum wage hourly --



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007027

TX_00034169

USA_00021909

Hearing - Volume 3

April 7, 2009

453

1 for a minimum wage hourly worker is often not feasible,
2 especially in San Antonio with the horrible public
3 transportation system.

4 Some of you may consider obtaining a
5 driver's license or a Texas ID a simple matter. For the
6 poor and many elderly, it can be a complex time
7 consuming and costly process. By the way, for a number
8 of reasons, my 38-year old son does not have a driver's
9 license, nor does he have any alternative forms
10 mentioned in this bill except his birth certificate and
11 his voter registration, and if he didn't have me to buy
12 him a Texas ID, he wouldn't be able to get it. He would
13 no longer be able to vote, but the noncitizen, a felon,
14 who'll be out of the county during the election period
15 would be able to early easily vote with the -- the
16 process, the absentee process.

17 If we have evidence of tens of thousands
18 or even hundreds of fraudulent voters, I'd be standing
19 here working hard to find an answer to ensure ballot
20 integrity, but as has been clearly shown that there is
21 no voter fraud in Texas that would be eliminated by this
22 bill, okay, despite the inappropriate use of huge amount
23 of taxpayer's money to investigate and find such fraud.

24 I was very impressed with the suggestions
25 and testimony of the first witness, Randall Buck Wood.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007028

TX_00034170

USA_00021910

Hearing - Volume 3

April 7, 2009

454

1 His suggestions are intended to enhance voter
2 participation and truly test for voter fraud while this
3 bill, as currently written, is simply intended to reduce
4 voter participation. It is not intended to reduce
5 nonexistent voter fraud.

6 In the senate, Senator Fraser repeatedly
7 referred to the increase in democratic votes in Georgia
8 and Indiana, but failed to mention that those increases
9 were present across the entire country inarguably
10 attributable to Barack Obama and the overall 2008
11 political environment. Those two states were
12 particularly in play as never before. This bill is a
13 blatant partisan effort to disenfranchise minorities and
14 the elderly and poor of Texas with a very expensive
15 backdoor poll tax. The bill's real intent is to
16 suppress democratic votes in order to stem the political
17 direction of the great State of Texas.

18 I'm here to ask that every representative
19 present today look into their hearts and do the right
20 thing for the many voters of Texas who are less
21 fortunate themselves. Do not take away their right to
22 vote.

23 CHAIRMAN SMITH: We won't. Any questions,
24 members? You all are doing good. I'm proud of you.
25 That's okay. I like it.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007029

TX_00034171

USA_00021911

Hearing - Volume 3

April 7, 2009

455

1 At this time the chair calls Ann Hettinger
2 with Concerned Women of Americas. Ann still here?
3 Don't see Ann, so I'm going to show her as not
4 testifying, but being in favor of Senate Bill 362. Now
5 we're getting down to the tough ones.

6 Hayward Vickery, Junior. Are you here?
7 All right. I'm going to show him as being in favor of
8 Senate Bill 362, but not testifying.

9 Chair calls Wayne Lessmann. Don't see
10 Wayne. So I will show him as testifying in -- or not
11 testifying in favor of Senate Bill 362.

12 Chair calls Richard Wheeler who's
13 testifying in favor of Senate Bill 362 on behalf of
14 himself, I believe. Please state your name and who you
15 represent.

16 MR. WHEELER: My name is Richard Wheeler,
17 and I represent myself.

18 CHAIRMAN SMITH: Thank you.

19 MR. WHEELER: I've got kind of a story
20 that I want to tell you, and I'll try to keep it as
21 brief as I can. I own a mail store here in Austin,
22 Texas, and every voting period we get stacks and stacks
23 and stacks of voter registrations that come in for our
24 mailbox holders. The problem is is about 50 percent of
25 them are wrong. 50 percent of the voter registrations



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007030

TX_00034172

USA_00021912

Hearing - Volume 3

April 7, 2009

456

1 that come to my store are people who have not had a
2 mailbox at my store. I've got the evidence right here
3 in this folder right here that I'm going to leave with
4 you guys that haven't had mailboxes in five, six,
5 seven years.

6 And what's happening is I got so fed up
7 with it, that finally when I saw one of the voter
8 registrations for the guy that I knew was in jail for
9 armed robbery, I said that's it. I've had it, you know.
10 So I finally decided I was going to get on the phone,
11 and I called the Secretary of State's office. And I
12 complained and complained, and they said it wasn't our
13 problem. So then they said, Bill, that's Travis
14 County's problem.

15 So then I got on the phone. I called
16 Travis county, and I said, look, I've got 35 to 40 voter
17 registrations in my hand right now are for people who
18 haven't had a mailbox here in five to seven years, and I
19 said and you're mailing them to the last known address
20 that you have for them, and I said there's no integrity
21 there. I could go out and I could vote 40 times if I
22 wanted to. And they said, no, you're wrong. We remove
23 them after two years, and I said you do not. I said I
24 have them here and I have proof, and they said, no, we
25 don't. I said you're mailing them to people that are in



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007031

TX_00034173

USA_00021913

Hearing - Volume 3

April 7, 2009

457

1 jail too. No, we're not. Yes, you are. I said I have
2 the voter registration in my hand. They denied it.
3 They gave me the runaround. They kept giving me the
4 runaround.

5 So, finally, I contacted News 8. News 8
6 came out to my store, and they looked at it and they
7 were just shocked, so they did a piece on it. And that
8 was about a year ago, and, finally, it was -- became a
9 dead issue. So about, I don't know, maybe a month ago,
10 an election judge came into my store, and I showed him
11 that big stack of voter registrations and when I showed
12 him that stack of voter registrations, his eyes got big,
13 and I said I called everybody. Nobody cares. I said
14 they're just sending the voter registrations out to the
15 last known address, and some of these people haven't
16 lived in Texas that, you know, I've got in here where
17 they've moved out of state. They live in California.
18 Several -- Bunch of these live in California. Some even
19 live in North Carolina. I've got the address in North
20 Carolina. I got the address in California. They
21 haven't lived here in years, but the voter registration
22 still goes to last known address. So anybody can take
23 that, walk in and vote.

24 And I had the gentleman back there go
25 through these with me, and according to what his person



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007032

TX_00034174

USA_00021914

1 was working on it is that 24 of these -- of this stack
2 here were fraudulently registered because they said that
3 they lived in my store and received their mail in my
4 store and of those six voted. So six of these should
5 have been invalidated to begin with and that's the ones
6 that I knew about. That's the ones I didn't put into
7 people's mailboxes. These are the ones that, you
8 know -- and every year I'm just getting tired of seeing
9 stacks and stacks and stacks of these come in.

10 And I asked my mail carrier that delivers
11 mail, and I said what do you do when you get a stack of
12 voter registrations that go to a house that there's 15
13 different names on that? I said do you go through those
14 same things one by one by one to make sure that these
15 people live in this house? And he goes, not my job. He
16 said I put them there, and it's up to the people living
17 there to either return them or destroy them. And I said
18 what if they don't? He goes, that's not my problem.

19 So I -- I thought it would be, you know,
20 worthwhile coming up here, and I'm going to leave these
21 as evidence for you. I don't know what to do with them.
22 I'll keep showing them to people. I don't know what to
23 do with them. So, finally, I've got somewhere where I
24 can leave them somewhere and somebody can take these off
25 my hands because I'm tired of showing them to people.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007033

TX_00034175

USA_00021915

Hearing - Volume 3

April 7, 2009

459

1 But I think we need to -- I think we need
2 an ID because I think -- at least I know Travis County
3 is way too haphazard by sending out voter registrations
4 to the last known address on file, and like one of these
5 people that was sent to, I called him up, and I said I
6 got a confession to make. I said I got your voter
7 registration here -- He hasn't lived here in four years.
8 I said I got your voter registration here. And he said,
9 well, I never registered to vote. I got my license
10 there when I -- when I visited Austin last time, but he
11 said I never registered to vote, and I said, well, your
12 voter registration is here. I said I've got it here. I
13 just want to let you know that I'm going to be taking it
14 in, and I'm going to give them your phone number and
15 your address on here so you can validate that you
16 haven't lived in Austin, you know, in the last
17 four years, and Travis County has not removed you from
18 the voting list. He said I've never voted in Travis
19 County in my life.

20 So until Travis County gets a little bit
21 more efficient on sending out voter registrations, we
22 got to have something to -- to prove that these people
23 are who they say they are. One suggestion that I made,
24 and I don't know whether this is even possible about a
25 possible solution to maybe make the Democrats and



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007034

TX_00034176

USA_00021916

Hearing - Volume 3

April 7, 2009

460

1 Republicans happy is say if you don't --

2 CHAIRMAN SMITH: Give them to me.

3 MR. WHEELER: If you don't have a say, if
4 you don't have a picture ID, you take -- you have to go
5 into this other group of voting machines, and it asks
6 you what is the sum of the last four digits of your
7 Social Security or it randomly asks you what's the sum
8 of the last two, what's the sum of the last three. And
9 each time it asks you a different one, and that way if
10 you find your voter registration on your uncle's desk
11 and your uncle doesn't want to vote, you can't grab it
12 off his desk. You go in to vote, and you don't have his
13 ID. You go, oh, what's the sum of the last three digits
14 of Uncle Bob's social security number? I guess I'll
15 take a guess, and if it's wrong, it invalidates your
16 vote. I mean, that's one way where you could actually
17 prove that that's the person that it is without actually
18 giving away what your Social Security number is.
19 Because -- And the machine's going to know whether it's
20 right or wrong. It will ask you randomly.

21 You know, that's a suggestion I've had,
22 but I don't know if that's something that the machine
23 could do, but I'm tired of keeping up with all these,
24 and they went through them, and, I mean, you'll see so
25 many of these that came into my store, and I've got



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007035

TX_00034177

USA_00021917

Hearing - Volume 3

April 7, 2009

461

1 their mailbox applications here that shows that they
2 haven't had -- you know, received mail in my place in
3 years and years and years and years, but -- Travis
4 County does not update their files, but I did find out
5 that the guy that did get arrested for armed robbery and
6 is in prison, they have recently taken him off the
7 voting thing. They sent his voter's registration, but
8 now he's off. I don't know whether my call in to there
9 and raising cane with them had him removed or not, but
10 he has been removed.

11 CHAIRMAN SMITH: So your concern is that
12 we've got basically these documents floating around out
13 there --

14 MR. WHEELER: Going to the wrong
15 addresses.

16 CHAIRMAN SMITH: -- that are basically a
17 free ticket for anybody to pick them up and go vote.

18 MR. WHEELER: That's exactly right.

19 CHAIRMAN SMITH: And you have a signature
20 on the card so if you are capable of in general terms
21 recreating the signature that you see on the card when
22 you -- when you -- when you vote. I don't know if when
23 you offer that and you have to sign -- Yeah. And so I
24 don't know if they lay a card down where they have to
25 sign or not.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007036

TX_00034178

USA_00021918

Hearing - Volume 3

April 7, 2009

462

1 MR. WHEELER: So they just have to sign
2 it, yeah.

3 CHAIRMAN SMITH: But -- but -- So if you
4 don't have to sign at the poll, there's not even the
5 matching signature provision.

6 MR. WHEELER: I get 30 to 50 every voting
7 period. 30 to 50. I have about --

8 CHAIRMAN SMITH: So your presumption is --

9 MR. WHEELER: -- 34 in here right now.

10 CHAIRMAN SMITH: That if it's that easy,
11 all you do is lay the card down. There's not anything
12 to back it up. That it is almost impossible, if not
13 impossible, in that situation to catch.

14 MR. WHEELER: Right. I could have voted
15 45 times.

16 CHAIRMAN SMITH: That your presumption is,
17 therefore, there are people doing it because it's easy
18 to do.

19 MR. WHEELER: It's too easy not to do.

20 CHAIRMAN SMITH: Impossible to detect and
21 there are motives to do it because people are trying to
22 win elections and, therefore, your presumption is that
23 it occurs more often than what we know as a matter of --

24 MR. WHEELER: Exactly.

25 CHAIRMAN SMITH: -- evidence and fact.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007037

TX_00034179

USA_00021919

Hearing - Volume 3

April 7, 2009

463

1 MR. WHEELER: Exactly.

2 CHAIRMAN SMITH: Any questions, members?

3 UNIDENTIFIED SPEAKER: Real quick. Those
4 aren't originals, are they?

5 MR. WHEELER: Yes, they are.

6 UNIDENTIFIED SPEAKER: I don't know if I'd
7 leave originals here. That's your call.

8 MR. WHEELER: Well, I don't want to give
9 them to somebody else.

10 UNIDENTIFIED SPEAKER: It sounds like you
11 really want to get rid of them.

12 MR. WHEELER: I'm tired of showing them to
13 people in my store, so --

14 CHAIRMAN SMITH: You should probably turn
15 them over to Dana.

16 MR. WHEELER: I made copies of them all
17 and kept them at my work, but I assume get rid of all
18 these originals to someone here.

19 UNIDENTIFIED SPEAKER: And they send them
20 back to you.

21 CHAIRMAN SMITH: I'd like to have a copy
22 of them.

23 UNIDENTIFIED SPEAKER: Tom, we're only
24 kidding.

25 CHAIRMAN SMITH: What I would like to do



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007038

TX_00034180

USA_00021920

Hearing - Volume 3

April 7, 2009

464

1 if okay is take possession of them and then make copies
2 available to any of the members on the panel that wish
3 to have them or I will actually -- Okay. Any other
4 questions for this witness, please? I don't see any
5 questions. Yeah, I'm going to give that to my clerk and
6 we'll make copies.

7 UNIDENTIFIED SPEAKER: He's going to do
8 the investigation.

9 CHAIRMAN SMITH: Thank you.

10 MR. WHEELER: Thank you, gentlemen.

11 CHAIRMAN SMITH: Appreciate it. We're
12 just going to make copies to the extent that anybody
13 asks for it. You got it, Travis? I want to look at
14 those. Carla Mercado?

15 UNIDENTIFIED SPEAKER: She's gone.

16 CHAIRMAN SMITH: She's gone. So the
17 witness is not testifying and being against Senate Bill
18 362.

19 The chair calls Terri Burke representing
20 the ACLU of Texas against Senate Bill 362. Please state
21 your name and who you represent.

22 MS. BURKE: I'm Terri Burke. I'm the
23 executive director of the ACLU of Texas.

24 CHAIRMAN SMITH: Thank you.

25 MS. BURKE: Thank you.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007039

TX_00034181

USA_00021921

Hearing - Volume 3

April 7, 2009

465

1 CHAIRMAN SMITH: You're welcome.

2 MS. BURKE: Earlier Representative Anchia
3 made the point that he thought perhaps the elections
4 committee would focus on broader issues and the broader
5 picture. We at the ACLU agree that what Texas needs is
6 a top to bottom review of the election process.
7 Nevertheless, the bill in front of us is this one. And
8 our concern specifically about it is the fact that we
9 believe it will create more possibilities for
10 provisional ballots. Provisional ballots are a serious
11 problem in our state. They are more serious than voter
12 impersonation because so many provisional ballots are
13 rejected in our elections.

14 We've discovered through our research of
15 provisional ballots that we have an extremely high rate
16 of rejection. The average rate nationwide is
17 20 percent. In Texas, in the '04 presidential election,
18 the rejection rate was over 78 percent. In the 2008
19 election, the one we just had, the rejection rate was
20 right at 78 percent. 42,000 Texas voters cast
21 provisional ballots and only 9,400 of them were actually
22 counted, meaning, that 32,000 Texans were -- their votes
23 were not accepted.

24 There are deterrents to in-person voter
25 fraud already in place in Texas. You've spoken today



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007040

TX_00034182

USA_00021922

Hearing - Volume 3

April 7, 2009

466

1 about HAVA. You've had witnesses who have testified to
2 that. There is more risk in Texas of an eligible voter
3 being rejected at the polls due to some clerical error
4 than there is of a fraudulent one even being allowed to
5 pick up a ballot. Voting in Texas should mean your vote
6 counts. It should not be a case that you have a one in
7 five chance of having your vote count. Voting is a
8 foundational right, and we don't think it's something
9 that should be gambled with.

10 CHAIRMAN SMITH: Thank you very much. And
11 just for purposes, my understanding is that currently
12 most of the absent -- I mean, the provisional ballots
13 are cast because people are not even on the voter
14 registration rolls.

15 MS. BURKE: They have been purged.

16 CHAIRMAN SMITH: So I think we're looking
17 real seriously at the possibility of creating a separate
18 kind of provisional ballot where the mechanism by which
19 it is counted is very different, and -- and it will be
20 structured so that we do everything within our power to
21 ensure that those votes are counted to the extent that
22 they are demonstrated to be legal, okay? So I think --
23 I think we can get there.

24 MS. BURKE: You know, one other issue with
25 them is that often the election folks, the poll workers,



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007041

TX_00034183

USA_00021923

Hearing - Volume 3

April 7, 2009

467

1 don't offer that option to the voter. A lot of these
2 provisional ballots only get cast because the voter
3 knows to ask for it. But if you don't know to ask for
4 it, it doesn't get offered, so that's another part of
5 that educational process --

6 CHAIRMAN SMITH: Yeah.

7 MS. BURKE: -- you've been talking about.

8 CHAIRMAN SMITH: Well, we'll do what we
9 can, and that certainly would not be the intent of this
10 committee for that to be discretionary on the part of a
11 judge.

12 MS. BURKE: Well, it has been.

13 CHAIRMAN SMITH: Okay. Thank you very
14 much. Any other questions, members? Thank you.

15 MS. BURKE: Thank you.

16 CHAIRMAN SMITH: James Carter?
17 Representing the Republican party of Bell County and is
18 testifying in favor of Senate Bill 362. Please state
19 your name.

20 UNIDENTIFIED SPEAKER: Is this James
21 Carter of the Carter Baker Commission?

22 CHAIRMAN SMITH: No, it is not.

23 MR. CARTER: Thank goodness.

24 UNIDENTIFIED SPEAKER: I thought we had an
25 authoritative source.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007042

TX_00034184

USA_00021924

Hearing - Volume 3

April 7, 2009

468

1 CHAIRMAN SMITH: I didn't even pick up on
2 that.

3 UNIDENTIFIED SPEAKER: Are you willing to
4 stand in as an authoritative source?

5 MR. CARTER: I'm going to avoid that by
6 the plague.

7 CHAIRMAN SMITH: Please state your name
8 and who you represent.

9 MR. CARTER: James Carter. I represent
10 the Republican party of Bell County, specifically as the
11 person designated to perform the cleaning of election
12 judges and clerks under Section 32.113. And then
13 additionally as myself in the capacity of an election
14 judge, and I've operated in that capacity since 1990.

15 The Texas election laws direct that each
16 party's political county executive committee provide the
17 training for the election officers administering the
18 elections under your election code. Part of that
19 education -- and the training is provided, the substance
20 is based on the Secretary of State's training materials.
21 Part of that is notifying the election personnel that
22 they swear and must protect the integrity and the purity
23 of the election. They take that oath very seriously.
24 They do it to the best of their ability.

25 What you're looking at is a set of



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007043

TX_00034185

USA_00021925

Hearing - Volume 3

April 7, 2009

469

1 election workers that may perform this duty once, twice,
2 maybe three times every two years. In that span of time
3 your legislation or legislative actions have changed.
4 So they have to understand what changes are now in
5 effect. On election day, they're going to process
6 between 30 and 50 percent of the eligible voters in
7 their precinct. The others either have not chosen to
8 vote or have voted early. That is a lot of people in a
9 very short period of time for a person that has a very
10 short exposure to training in the election law.

11 Most of the tools that they have right now
12 are effective. The one essential element they have not
13 got is to identify the person presenting themselves to
14 vote as the person they represent themselves to be
15 correlated with the name on the precinct list. Your
16 present voter card correlates the precinct and the
17 residence address which is based upon the apportionment
18 of the overlays of the elected offices on the ballot.

19 In Bell County for a normal election, we
20 have 13 formats. If you add special elections,
21 overlaying that with school, water district, whatever,
22 then they must have still a separate ballot within that
23 same precinct. You're requiring the election voters to
24 do an awful lot. One of the problems that they have is
25 making sure that that person gets the proper ballot,



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007044

TX_00034186

USA_00021926

Hearing - Volume 3

April 7, 2009

470

1 proper format, in order to cast a legitimate vote.

2 We need this bill. We need the photo ID
3 for it. I'm out of time. I didn't get a chance to talk
4 about anything. What we don't need is proxy votes. We
5 do need people picking up different registration cards
6 using one in early voting in one location, early voting
7 in another location and for however many early voting
8 locations you have in Bell County, we have six and then
9 on election day coming in with the seventh. Each would
10 have different addresses, but the signature would align
11 with the name and without a photo ID. How do you
12 determine that person is whom they represent to you?
13 I'm sorry for going over time.

14 CHAIRMAN SMITH: That's all right. You're
15 good. Representative Heflin?

16 MR. CARTER: Say again?

17 CHAIRMAN SMITH: No. I was just saying
18 you are not alone in going over, so we're not going to
19 give you a hard time about it. Representative Heflin?

20 REPRESENTATIVE HEFLIN: Mr. Carter, one of
21 the things that I'm so enjoying about the testimony
22 we've heard in the last two days, it's been such a
23 wonderful educational process, and I often hear these,
24 wow, I didn't even think of that, but you hit it on the
25 head when you said, you know, if you got different



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007045

TX_00034187

USA_00021927

Hearing - Volume 3

April 7, 2009

471

1 hospital districts, water district, all these different
2 elections, and I know in some of my counties people are
3 running all over town trying to vote and that's a real
4 critical issue that you bring up.

5 MR. CARTER: I would like to expand on
6 that just a moment.

7 REPRESENTATIVE HEFLIN: Please.

8 MR. CARTER: At your early voting
9 locations, each location must have the ballot format for
10 every category of voter in the county. In our case, we
11 use a paper ballot with a precinct tabulation unit which
12 automatically counts that. In early voting, our county
13 has computers which are tied in, wired in to the county
14 database. Two completely different reporting systems.
15 And what I'm addressing in my testimony is confined to
16 election day effort by the election orders.

17 REPRESENTATIVE HEFLIN: Thank you for the
18 information.

19 CHAIRMAN SMITH: Questions, members?
20 Representative Bonnen?

21 REPRESENTATIVE BONNEN: You all aren't
22 doing -- You all aren't using the electronic voting
23 machines at this point?

24 MR. CARTER: No, sir. We -- We have a
25 paper ballot based system which causes us to have to



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007046

TX_00034188

USA_00021928

Hearing - Volume 3

April 7, 2009

472

1 estimate how many ballots need to be printed for each
2 format. Boy, that's a crystal ball operation.

3 REPRESENTATIVE BONNEN: Are you having --
4 are you having to transition -- I mean, do you have
5 electronic voting machines on the horizon or --

6 MR. CARTER: No. Our county commissioners
7 chose to get the paper ballot and the precinct level
8 tabulation to provide a ballot trail in the event of a
9 recount.

10 REPRESENTATIVE BONNEN: Okay.

11 MR. CARTER: And that has worked very
12 well. In fact, we had a -- in the last general
13 election, we were inspected in several precincts by
14 representatives of the Secretary of State's office and
15 they found no procedure lures.

16 REPRESENTATIVE BONNEN: Very good.

17 MR. CARTER: Our training in Bell County
18 is working well, but we need to be able to identify the
19 voter with the person on the list. Yes, sir?

20 REPRESENTATIVE BONNEN: If we're not here
21 all night, next week I think I'm going to Bell County
22 with my local emergency management and commissioners to
23 thank you all for the phenomenal job you did in helping
24 our evacuees during Hurricane Ike. Bell County couldn't
25 have been more welcoming and more decent to the folks



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007047

TX_00034189

USA_00021929

Hearing - Volume 3

April 7, 2009

473

1 that -- that took shelter there.

2 MR. CARTER: I'll pass on your
3 appreciation to the appropriate folks.

4 CHAIRMAN SMITH: Have you seen any
5 suspicious activity yourself?

6 MR. CARTER: Yes, sir, I have.

7 CHAIRMAN SMITH: Can you describe what
8 you've seen?

9 MR. CARTER: The most recent two
10 incidences, the first one -- and I was working as
11 election judge with trying to keep the ballot signatures
12 stamped and furnished, the documentation flowing to my
13 clerks. One of my clerks called to my attention an
14 individual in unique clothing stood out like a -- like a
15 sore thumb. I had noticed him coming through the
16 Republican primary, voted. Approximately 40 minutes
17 later, time is just kind of nebulous there, she called
18 and she said see that guy? Hey, look at that. He's
19 putting a Democrat ballot into the tabulation machine.
20 So that individual voted in the primary of the Democrat
21 party and the Republican party. With whose party he's
22 associated, I have not any idea, nor do I know what kind
23 of documentation he presented because it was -- we're
24 not keeping track of that. If they qualify to vote,
25 they get the ballot, move on -- move the people through



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007048

TX_00034190

USA_00021930

Hearing - Volume 3

April 7, 2009

474

1 as quickly as possible. The Democrats did the same
2 thing. With the voter picture -- I mean a voter photo
3 on the identification, that would have stopped that.
4 One would have been accepted. The other would have been
5 rejected.

6 The second was an individual who came in
7 demanding that he be given the right to vote. The
8 clerks tried to find his name on the precinct list. It
9 was not there. They -- They called and tried to verify
10 it with the election voter registrar's office, and lo
11 and behold, no, we haven't got him in that precinct.
12 We've got him in a different precinct in the county, at
13 which time he was becoming irate demanding his name be
14 found on the precinct list. I was called in to
15 intervene. And he said I know my name's there. I'm
16 supposed to vote in this precinct. And I investigated
17 further and found out, well, from the voter registrar,
18 we've got an indication that you voted in this precinct
19 over here. Oh, that's right. I've already cast my
20 ballot. I was trying to vote here also.

21 Now, that was an intentional attempt to
22 double vote. If -- If the clerks had not been doing
23 what they should have done, they would have given a
24 provisional ballot and would that have counted, meaning,
25 a double vote? I have no idea. It should not have.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007049

TX_00034191

USA_00021931

Hearing - Volume 3

April 7, 2009

475

1 But the point is the clerks did their job. They
2 filtered that person, found out that, yes, he had
3 qualified and voted elsewhere, but they stopped the
4 subsequent attempt. Those are the two I have personal
5 knowledge of.

6 CHAIRMAN SMITH: Thank you. Any other
7 questions, members of the committee? Thank you very
8 much for taking the time to come. Thank you for staying
9 so late with us.

10 REPRESENTATIVE BROWN: Thank you for
11 taking time to train your clerks so well too.

12 MR. CARTER: You know, let me address
13 that. That requirement is in the election code. It is
14 not stressed sufficiently, and that is where a lot of
15 problems start. The parties are required -- the words
16 used are shall provide the training. The county clerk
17 may provide the training. That pertains to the
18 primaries which are party peculiar. In a general
19 election or in other types of elections, the appropriate
20 election authority provides the training, county clerk,
21 city clerk, election administrator, whatever the
22 appropriate term is, but if you emphasize the training,
23 you are going to solve a lot of the problems.

24 CHAIRMAN SMITH: Thank you, sir, very
25 much. It Robert Stewart still with us by chance?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007050

TX_00034192

USA_00021932

Hearing - Volume 3

April 7, 2009

476

1 Robert Stewart? You are not Robert Stewart, I don't
2 think, are you? Okay. I know Estelle Teague, and I
3 don't see her. Are you still here, Estelle? She's not
4 here, so I'm going to show her as --

5 UNIDENTIFIED SPEAKER: Let's wait and see
6 if she comes in.

7 CHAIRMAN SMITH: -- as being neutral and
8 not testifying on the bill. She's just so excited in
9 anticipation of our version that she decided to be
10 neutral on the Senate Bill. I think that's what it must
11 have been, what it was. And let me just -- I want to
12 state that last witness, I think some of us have been --
13 we haven't asked every witness, and we are particularly
14 interested in there's been a lot of debate and
15 discussion about the extent to which this bill would
16 alter voter turnout on the one hand and the extent to
17 which there is evidence of voter impersonation on the
18 other hand, and so those are the issues as much as
19 anything else that we're interested in.

20 So any of you who have any personal
21 experience or testimony regarding either of those
22 issues, we want to make sure we hear from you on those
23 subjects. So please don't disappoint us.

24 Christopher Bilardi? Who is -- Is he
25 still here? I'm going to show him as against and not



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007051

TX_00034193

USA_00021933

Hearing - Volume 3

April 7, 2009

477

1 testifying.

2 Amy Clark? Amy Clark is here. You're
3 going to testify on behalf of yourself in favor of 362;
4 is that correct?

5 MS. CLARK: Yes, sir.

6 CHAIRMAN SMITH: Please state your name
7 and who you represent.

8 MS. CLARK: Good evening. I'm Amy Clark.
9 I'm representing myself. I'm from Wilson County outside
10 of Floresville, and thank you for your attentiveness to
11 everybody that's speaking. I know sometimes we all just
12 have a desire to be heard and tonight is no different,
13 but thank you very much for -- for that and the
14 insightful questions.

15 I have no doubt that in 3 minutes I could
16 in any way improve upon the reams of pertinent
17 information that have already been presented to you in
18 the last three days now on behalf of this bill, but I
19 did want to come before you tonight simply to register
20 my support in favor of the bill and to echo the many
21 voices across my community who want our
22 representatives -- who want you all in Austin to pass
23 what we consider back on the home front as common sense
24 legislation and back on the home front in little town
25 Texas, that's what this bill is seemed to be.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007052

TX_00034194

USA_00021934

Hearing - Volume 3

April 7, 2009

478

1 I wholeheartedly affirm the earlier idea
2 that was expressed that we do not want to in any way
3 suppress voter turnout, but instead to increase
4 legitimate voter turnout, and I believe this bill would
5 accomplish just that.

6 The Senate Bill 362 would be a positive
7 effort to close the loophole of potential voter fraud,
8 and it has the added benefit of demonstrating to the
9 voters of Texas that an effort is being made to ensure
10 fair and honest elections should further efforts be made
11 absolutely, especially in the avenues as we've heard
12 before of mail-in ballots and voter registration.
13 Absolutely. But this represents a very good start.

14 The very perception of voter fraud in our
15 community works to increase general sense of
16 disillusionment, and it's been suggested that people
17 might stay home from an election in fear of the
18 crackdown on voter fraud or a change in the process, but
19 I submit to you this. What about the folks that stay
20 home because they don't believe in the system, that the
21 system is broken, that their vote doesn't count and then
22 everything is crooked? I think that that distrust is
23 real, it's tangible and it runs very deep. And I see it
24 as a problem that you have the opportunity to fix here
25 with this bill.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007053

TX_00034195

USA_00021935

Hearing - Volume 3

April 7, 2009

479

1 As it was suggested earlier by the
2 committee, we are all in this room unified in our desire
3 to fight voter fraud. Nobody wants voter fraud, and I'm
4 sure we are also unified in agreement that the right to
5 vote a right of this importance carries with it an
6 inherent and unique responsibility, and I think that
7 that is something that has gotten lost in some of the
8 discussions as the hours go on. It is all right to
9 vote. It also carries our responsibility, and I think
10 that this bill affirms that notion.

11 Members of this committee, I respectfully
12 ask you to let the people of Texas know that you're
13 serious about the integrity of our elections by passing
14 this bill. Senate Bill 362 represents a simple, a
15 common sense measure working to eliminate one specific
16 avenue of potential fraud and strengthen our election
17 system. Is it the most perfect and all encompassing
18 bill? Absolutely not. But it is a first step and it's
19 a positive step in the right direction.

20 I ask you genuinely to consider this bill
21 to restore confidence in the system to take this step to
22 further secure our elections, and please consider it in
23 the light of common sense and personal responsibility.
24 Thank you.

25 CHAIRMAN SMITH: Any questions of



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007054

TX_00034196

USA_00021936

Hearing - Volume 3

April 7, 2009

480

1 Ms. Clark, members? No questions? Thank you very much
2 for coming.

3 MS. CLARK: Thank you.

4 CHAIRMAN SMITH: At this time the chair
5 calls Marsha Correira -- Correira -- I'm messing that
6 up -- on behalf of yourself against Senate Bill 362.

7 MS. CORREIRA: Yes.

8 CHAIRMAN SMITH: Please state your name
9 and who you represent.

10 MS. CORREIRA: I'm Marsha Correira. I
11 represent myself. I'm from Bastrop County. I grew up
12 between Wylie and seven points. Let me get my glasses
13 on. I have several points to make, and this is going to
14 be kind of disjointed because I have a lot to say, but I
15 don't have a lot of time to do it.

16 We heard reports today and this evening of
17 massive voter fraud in Texas associated with mail-in
18 ballots, ballots being taken out of mailboxes, for
19 instance. This bill doesn't address mail-in ballots at
20 all and shouldn't even be discussed in those terms.

21 Also, just because you're in the same
22 county during an election doesn't mean you're able to go
23 and vote. I voted with a mail-in ballot last fall
24 because I was just two weeks out of the hospital and
25 couldn't travel. My big travel was from the bedroom to



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007055

TX_00034197

USA_00021937

Hearing - Volume 3

April 7, 2009

481

1 the living room, and if a crook could steal a mail-in
2 ballot, they could also steal a bank statement and
3 utility bill, even the voter registration certificate
4 itself, even IDs are sent by US mail.

5 Provisional ballots. Provisional ballots
6 in general are to the counted. It happened in my own
7 precinct. To be required to drive to the county seat to
8 present ID to the elections administrator within 10 days
9 is a barrier to voting, and there's nothing in this bill
10 which mentions the 10-day deadline, nor in any way
11 curing the defect.

12 People work. They'd have to take off
13 work. Transportation could be an issue, and they would
14 be disenfranchised, many of them, after voting for many
15 years or even decades. The bill's fiscal notes
16 indicates \$2 million in state money would be spent next
17 year to implement this scheme, and the cost of the free
18 photo ID from DPS for the sole purpose of voting was not
19 included in the fiscal notes.

20 There are Texans who are qualified to
21 vote, but lack resources for the proof of identity.
22 Supreme court spoke to that. They said, well, their fee
23 paying has no relation to voting qualifications. The
24 right to vote is too fundamental, burdened or
25 conditioned. The bill specifically states "the fee for



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007056

TX_00034198

USA_00021938

Hearing - Volume 3

April 7, 2009

482

1 personal identification certificate is \$15." There's
2 also a fee for birth certificate to obtain that ID. In
3 the same Supreme Court case, the court held we
4 conclude -- "We conclude that a state violates the equal
5 protection clause of the 14th Amendment whenever it
6 makes the affluence of the voter or payment of any fee
7 an electoral standard. Voter qualifications have no
8 relation to wealth, nor to paying this or any other
9 tax." And this is a poll tax and that's what they were
10 speaking to in 1966. This is long settled. May I
11 continue as others did?

12 CHAIRMAN SMITH: I'll give you a little
13 bit, yeah.

14 MS. CORREIRA: Okay. Any purchase of any
15 service or document or the establishment of any account
16 or the maintenance or renewal thereof is a poll tax,
17 outlawed by the 24th Amendment to our US Constitution
18 and then followed up when Texas, Virginia, South
19 Carolina and a few other states continued to charge the
20 poll tax in spite of the constitutional amendment.

21 The non-photo ID option seems reasonable
22 now, but you wait two years, four years, six years, then
23 there will be another partisan piece of legislation
24 outlawing the non-photo IDs. People of means probably
25 can't identify with people who are not financially well



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007057

TX_00034199

USA_00021939

Hearing - Volume 3

April 7, 2009

483

1 off. When I was young, I couldn't register to vote. I
2 could have registered to vote, but I had my priorities,
3 and one of them it was having dinner on the table for my
4 daughter. There was a poll tax when I was young, and I
5 was poor. I was part of the working poor. My daughter
6 and I always had one thing for dinner. That was all we
7 could afford. Usually something like a 49 cent box of
8 frozen brussel sprouts. 1.50 was a lot of money, and
9 there are voters today who don't have money for a birth
10 certificate.

11 You want to know the voter fraud in my
12 precinct? Republicans voting in the Democratic primary
13 last clear and casting a ballot that says I'm a
14 Democrat, that's the fraud in my precinct. We don't
15 have a problem with Voter ID.

16 CHAIRMAN SMITH: You understand that
17 Republicans can vote in Democratic primaries in Texas as
18 long as they do not also vote in a Republican primary?

19 MS. CORREIRA: Yeah, I understand that.

20 CHAIRMAN SMITH: Vice versa.

21 MS. CORREIRA: But when you cast that
22 ballot, it says I am a Democrat, okay? That's an
23 outright lie, and every Republican that voted in a
24 Democratic primary last year, big bunch of liars.

25 CHAIRMAN SMITH: I guess we could be a



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiredepositionsolutions.com

JA_007058

TX_00034200

USA_00021940

Hearing - Volume 3

April 7, 2009

484

1 Democrat for a day in this.

2 MS. CORREIRA: Yeah. I heard that -- I
3 heard that from somebody already.

4 CHAIRMAN SMITH: You mentioned earlier
5 that while there might be voter registration cards that
6 are floating around out there that create potential for
7 fraud, that there also --

8 MS. CORREIRA: Did I say that?

9 CHAIRMAN SMITH: Well, you -- you said
10 something about prior testimony to that effect and then
11 you said your point was there are also --

12 MS. CORREIRA: Oh, okay.

13 CHAIRMAN SMITH: There are also driver's
14 licenses that are mailed by regular mail to people as
15 well, and those are floating around out there as well to
16 the extent that they end up going to the incorrect
17 address.

18 MS. CORREIRA: No, I didn't say anything
19 about floating around.

20 CHAIRMAN SMITH: Okay.

21 MS. CORREIRA: What I said is that
22 somebody could take them out of the mailbox.

23 CHAIRMAN SMITH: Right. Right. And if
24 they did that, if somebody took them out of the mailbox,
25 you understand why there's less of a risk with regard to



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007059

TX_00034201

USA_00021941

Hearing - Volume 3

April 7, 2009

485

1 that photo ID for the purposes we're talking about here
2 of it being used simply because it has on it a photo of
3 another human being that is not you. That -- That's
4 sort of the distinction that's being made in the senate
5 between a photo ID on the one hand where that's -- you
6 really can't take that and use it to vote because it has
7 a picture of somebody else on it --

8 MS. CORREIRA: Yeah.

9 CHAIRMAN SMITH: -- and a voter
10 registration card which does not.

11 MS. CORREIRA: Yeah.

12 CHAIRMAN SMITH: And so any -- any -- any
13 questions, members?

14 MS. CORREIRA: But my bank statement
15 doesn't have my picture, my utility bill doesn't have my
16 picture, and if it's not a photo ID, it doesn't prove
17 squat. It doesn't.

18 CHAIRMAN SMITH: Well, you may be arguing
19 that the Senate Bill is too weak, and I've got some
20 Republican friends that would make that very argument.

21 MS. CORREIRA: What I'm saying is if it's
22 not photo ID, it's not photo ID, you know, and non-photo
23 ID is non-photo ID and doesn't prove anything.

24 CHAIRMAN SMITH: Any other questions,
25 members? Thank you for staying late and testifying.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007060

TX_00034202

USA_00021942

Hearing - Volume 3

April 7, 2009

486

1 MS. CORREIRA: My pleasure. Thank you.

2 CHAIRMAN SMITH: Gloria Deverick? There
3 you are. You are going to speak in favor of Senate Bill
4 362 on behalf of yourself; is that correct?

5 MS. DEVERICK: Well, to a certain extent
6 in my -- and my father's dead, but I'm speaking up for
7 my father too.

8 CHAIRMAN SMITH: Okay. Can you give me
9 your name and who you are speaking on behalf of?

10 MS. DEVERICK: Myself.

11 CHAIRMAN SMITH: What's your name?

12 MS. DEVERICK: I'm the only one that --
13 that's left.

14 CHAIRMAN SMITH: Okay.

15 MS. DEVERICK: My name is Gloria Deverick.

16 CHAIRMAN SMITH: Okay. Thank you.

17 Proceed.

18 MS. DEVERICK: My father and my uncle
19 founded LULAC.

20 CHAIRMAN SMITH: LULAC?

21 MS. DEVERICK: Yes.

22 CHAIRMAN SMITH: Okay.

23 MS. DEVERICK: And you've had all these
24 LULACers over here who are just corrupt as they can be.

25 My father is possibly a tornado in his grave, and so is



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007061

TX_00034203

USA_00021943

Hearing - Volume 3

April 7, 2009

487

1 his brother. My -- I'm the only one left in the family
2 that will stand up. My cousin, Ben Garza, died last
3 year, but he would not stand up. He didn't like what
4 LULAC was doing, but he had been a justice of the peace
5 and he had family, and I think that he felt that LULAC
6 would -- that he'd lose his job. His son is a banker.
7 His daughter is in health care. But he wouldn't speak
8 up, and so I knew that he was disappointed, but -- and
9 he was justice of the peace.

10 I have a cousin in Corpus Christi that's a
11 county commissioner. I've gotten on her case for being
12 rude. And you were talking about Hidalgo. She -- What
13 she did was the same thing. We -- There was a man
14 there, Heldenfels his name is. They were the ones that
15 built the streets from the very beginning in Corpus
16 Christi, and so they and this man was pretty outspoken,
17 and so she -- she -- he came in and he was complaining
18 about the sewers, and they had done something there at
19 Delmar, and it's -- he was complaining that it was -- it
20 was a terrible job, but he says the job that was done
21 there, it looks like it was done -- and he couldn't
22 pronounce the name Barrera (phonetic). He said barrio,
23 and my cousin walked out and took all the Hispanics on
24 the council with her.

25 So but my father never -- when -- see,



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007062

TX_00034204

USA_00021944

Hearing - Volume 3

April 7, 2009

488

1 we -- It's League of United Latin American Citizens, of
2 the citizens. Latin American. He came here. He was
3 honored by the State of Texas by the senate and the
4 legislature. And in 1971, who betrayed him? Carlos Tua
5 (phonetic) who he mentored. He tried to smear me
6 because I became a Republican in Baltimore, Maryland. I
7 was managing public housing over there. I had been
8 trained in a white housing project, and then they sent
9 me to a black one, and I was the only white woman
10 probably in a mile square, and my staff was black.

11 And so there's so much fraud in everything
12 including public housing, but the thing that I'm trying
13 to say is that it had to be citizens. His youngest
14 sister and her family were migrants. My father, on the
15 other hand, was pushing and pushing and pushing that
16 they had to go to school, that they had to go learn
17 everything, and thank God they taught civics and
18 history -- Texas history and US history at that time,
19 but the teachers union was communist. It was originated
20 by communists. The Raza Unida and LULAC and the
21 American GI Forum, there's a lot of envy in stuff like
22 that among Hispanics, particularly those that are called
23 Mexican Americans. There's envy and jealousy and just
24 all kinds of things like that.

25 And so the -- the thing that he fought



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007063

TX_00034205

USA_00021945

Hearing - Volume 3

April 7, 2009

489

1 hard to be called Latin American because our ancestors
2 are from Spain, and so the -- so he didn't say Mexican
3 American. He didn't say -- It was American GI for
4 (inaudible) that did this. You've got a congressman in
5 Corpus -- from Corpus Christi whose father is state
6 senator. This is what he did. You talk about voter
7 fraud and stuff like that.

8 I was also a Republican. I've been a
9 Republican since 1962.

10 CHAIRMAN SMITH: Ms. Deverick, the time
11 has more than expired. If you might wrap it up?

12 MS. DEVERICK: Well, if you want to ask
13 questions. I have seen the voter fraud. I believe that
14 the thing that you need to do is, like you said, take
15 pictures at the voting booth because when I was election
16 judge, they put me -- since I could speak Spanish and it
17 was a blank in a Hispanic area and I was overwhelmed as
18 an election judge because they come with all their
19 children, the Hispanics, not the blacks. They come with
20 all their children. You know that the blacks are going
21 to vote democratic. That's all right, but the same goes
22 for LULACers now.

23 CHAIRMAN SMITH: I'm going to have to
24 limit the testimony.

25 MS. DEVERICK: That's fine. But I -- I --



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007064

TX_00034206

USA_00021946

Hearing - Volume 3

April 7, 2009

490

1 can -- Can I leave my phone number and any time that --
2 I can tell you a lot more, but the Raza Unida and LULAC
3 and the American GI Forum are as corrupt as they can be,
4 and the Raza is communist. LULAC is into power.

5 CHAIRMAN SMITH: Okay. We have your
6 telephone number, and so any witness that wishes to
7 contact you could do so. Are there any questions for
8 this witness, members? Thank you. Thank you very much
9 for coming.

10 MS. DEVERICK: Oh, by the way, I came on
11 the metro, and I -- somebody may have to give me a ride.
12 I don't know how to get home.

13 CHAIRMAN SMITH: I'm afraid it's going to
14 be very late for us to be able to give you a ride.

15 MS. DEVERICK: Well, no, I'll keep
16 hollering if I have to walk.

17 CHAIRMAN SMITH: I recommend that former
18 Representative Carolyn Galloway do it. She's right back
19 there. Got a red shirt on.

20 At this time the chair calls -- it says
21 Courage John, but I imagine that's John Courage.

22 UNIDENTIFIED SPEAKER: John just left.

23 CHAIRMAN SMITH: Okay. Not going to
24 testify, shown against Senate Bill 362 on behalf of
25 Common Cause of Texas.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007065

TX_00034207

USA_00021947

Hearing - Volume 3

April 7, 2009

491

1 UNIDENTIFIED SPEAKER: Mr. Chair, we
2 should make sure that she gets a ride home. I mean,
3 seriously, if she wants to wait around, we can have a
4 staff --

5 CHAIRMAN SMITH: We got a volunteer.

6 UNIDENTIFIED SPEAKER: We got somebody?

7 CHAIRMAN SMITH: Skipper Wallace to the
8 rescue. Shirley Lindsey? Don't see any movements, so
9 I'm showing Shirley as not testifying, but being in
10 favor of Senate Bill 362. Move quickly.

11 Robert Green? Don't see anybody moving,
12 so we're going to show him as not testifying, but he
13 will be shown in favor of Senate Bill 362.

14 Helen Carvell is here speaking on behalf
15 of herself and against Senate Bill 362. Please state
16 your name and who you represent.

17 MS. CARVELL: I'm Helen Katherine Carvell,
18 and I represent myself, and I thank you for the
19 opportunity to speak with you at this late hour, and
20 thank you all for coming. As someone else has
21 previously mentioned, the tone has been very cooperative
22 and collaborative, and I appreciate that.

23 I'd like to discuss with you this problem
24 in terms of the election judge. As a nurse, I have
25 watched people go through various and sundry diseases.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007066

TX_00034208

USA_00021948

Hearing - Volume 3

April 7, 2009

492

1 If you were -- If you had a wasting disease, a
2 diagnosis, you would be suffering extreme weight loss.
3 With treatment, you would have extreme weight gain,
4 chemotherapy, the natural aging process, and one of our
5 ways we've entertained ourselves while here is trying to
6 compare all of you with your pick your pictures, and I
7 might say -- I might say -- I might say --

8 CHAIRMAN SMITH: Be careful.

9 MS. CARVELL: No. I just might say you
10 don't all look like your pictures. Now, as the person
11 who's worked an election, do I sit here and say is that
12 really you, Aaron Pena, or is that your brother or your
13 dad because you aren't gray in that photo. That's the
14 only difference, but the rest of you I might not
15 recognize at all. At least I recognize him.

16 I have a passport that -- that -- You may
17 not know that passports are valid for 10 years. I would
18 guarantee my passport from nine years ago doesn't look
19 like me today. Is that my job now as the election -- am
20 I the judge and jury? In addition to saying have you
21 moved since the last election, is this your current
22 address? Look at the voter registration. Give them the
23 right ballot. Am I also supposed to say, oh, let me see
24 the picture? Oh, yeah, that looks just like you. I
25 think not.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007067

TX_00034209

USA_00021949

Hearing - Volume 3

April 7, 2009

493

1 Furthermore, what I've heard today, which
2 I didn't realize, and how much corruption there is in
3 the election system in Texas. What I haven't heard is
4 any evidence that the system is not working in terms of
5 Voter ID. The man who is up from Bell County gave you a
6 perfect example. Somebody tried it. It didn't succeed,
7 but I also heard about problems in the valley where the
8 voting clerks and judges are intimidating. This just
9 gives them a gun. Why are we doing that? Why are we
10 making it easier for the corrupt to disenfranchise our
11 voters? This is especially true in the minority
12 community.

13 I used to work in Detroit, Michigan, and
14 someone once said to me, oh, I've never taken a driver's
15 test. I said how did you get a license? I sent my
16 cousin. You know, down south, they think all those
17 black people look alike. I mean, this to me is an
18 outrage. If we disenfranchise our minority community,
19 what's the purpose of any of us going to the polls? And
20 if you don't think the lines are going to be long while
21 we look at all the IDs and if that isn't going to
22 disincline the mothers, the working poor, to get in line
23 or take a day off to vote, I think you're sadly
24 mistaken, and I will be terribly disappointed if this
25 Voter ID passes.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007068

TX_00034210

USA_00021950

Hearing - Volume 3

April 7, 2009

494

1 CHAIRMAN SMITH: Any questions, members?
2 Thank you. Representative Anchia?

3 REPRESENTATIVE ANCHIA: Do I look like my
4 photograph? Kind of? Sort of? All right.

5 MS. CARVELL: No, no.

6 REPRESENTATIVE ANCHIA: I'll work on that.

7 MS. CARVELL: You all look -- Some of you
8 even look much cuter in your photographs. It wasn't --

9 UNIDENTIFIED SPEAKER: Which ones? We
10 want to know.

11 MS. CARVELL: But I'm not going to say
12 which ones.

13 UNIDENTIFIED SPEAKER: Are you guys
14 finished?

15 UNIDENTIFIED SPEAKER: No. We want to
16 know which ones.

17 MS. CARVELL: When this thing goes down,
18 I'll come back and tell you, okay?

19 CHAIRMAN SMITH: Thank you. 20ish. Yes,
20 ma'am.

21 MS. JOHNSON: Mr. Chairman --

22 CHAIRMAN SMITH: Yes, ma'am.

23 MS. JOHNSON: I'm becoming physically ill,
24 and I have --

25 CHAIRMAN SMITH: What's your name?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007069

TX_00034211

USA_00021951

Hearing - Volume 3

April 7, 2009

495

1 MS. JOHNSON: My name is Brenda Johnson.

2 Can I just give you -- mine is really --

3 CHAIRMAN SMITH: Would you like to testify
4 right now? Brenda Johnson, you filled out a form?

5 MS. JOHNSON: Yes.

6 CHAIRMAN SMITH: Okay. We'll find it.
7 Give us a minute.

8 UNIDENTIFIED SPEAKER: Would you like
9 anything to drink, Ms. Johnson? Do you need something
10 to drink? Water?

11 UNIDENTIFIED SPEAKER: Yes, she probably
12 does.

13 UNIDENTIFIED SPEAKER: Okay.

14 CHAIRMAN SMITH: If anybody else is
15 suffering under the same circumstances, I do believe
16 there are water fountains outside, and if that's not the
17 case, we can certainly make provisions. We'll send
18 Skipper Wallace to 7-Eleven. Please state your name for
19 the record and who you represent.

20 MS. JOHNSON: My name is Brenda Johnson.
21 I'm representing myself. I'm from San Antonio, from
22 Bexar County.

23 CHAIRMAN SMITH: And you're here to
24 testify against Senate Bill 362; is that correct?

25 MS. JOHNSON: Yes, I am.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007070

TX_00034212

USA_00021952

Hearing - Volume 3

April 7, 2009

496

1 CHAIRMAN SMITH: Okay. Please proceed.

2 MS. JOHNSON: Okay. I am one of those
3 voters -- I am 55 years old. I have never had a
4 driver's license. I spent \$160 to come here in a taxi
5 tonight to testify because that's how strongly I feel
6 against Senate Bill 362. If you really want a photo ID
7 to ensure the voter before the polling official is the
8 registered voter, the ID would need to reflect the
9 correct name of the registered voter, reflect an address
10 corresponding to that precinct and that of the
11 registered voter and the picture of the ID would need to
12 match the physical characteristics of the person before
13 the polling official.

14 If you've moved, got married or divorced
15 and went back to your maiden name, colored or cut your
16 hair, forgot you're wearing those blue contact lenses or
17 lost considerable weight, you could be a problem, and I
18 suggest that you look at Madeline Dewar's driver's
19 license if you want some verification of that. You
20 won't recognize it.

21 Since these Voter IDs would be required by
22 state law and not proof of an earned and paid for
23 privilege, the State would have to bear the cost. Since
24 driving is a privilege being like me choose to forgo,
25 Voter IDs need to be issued by the agency for which they



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007071

TX_00034213

USA_00021953

Hearing - Volume 3

April 7, 2009

497

1 are to be used, i.e., the Secretary of State through
2 election offices, not the DMV. That means installing
3 the equipment and personnel in these offices to meet the
4 considerable demands such a measure would bring. The
5 IDs would have to have a distinguishing feature making
6 them difficult to counterfeit.

7 Let's not forget the additional training
8 of volunteer poll workers like me in the proper
9 detection of fraudulent IDs, and I -- I forgot to
10 mention that I wanted to start off by saying that if the
11 risk of disfranchisement doesn't sway folks, let's talk
12 dollars and cents, and I want to know where the impact
13 statements or costs of this bill are. Since there's a
14 lot of evidence, these kind of measures constitute voter
15 disenfranchisement, you can expect the state to spend a
16 lot of money in court win or lose. So those are all
17 costs that we've got to consider.

18 We've got a million problems in this
19 state, and no state tax fund to draw from to pay for
20 them, and this is where Texans want legislators to spend
21 their limited time, attention and our tax dollars? This
22 citizen does not. I want to believe that proponents of
23 this measure are doing this for honorable if misguided
24 reasons, thus, my reasons thus far, but I am the
25 granddaughter of Mississippi sharecroppers. I was born



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007072

TX_00034214

USA_00021954

Hearing - Volume 3

April 7, 2009

498

1 the year of Brown versus Board of Education, was 10 when
2 the Voter Rights Act was signed by Texas's own President
3 Lyndon Johnson and know the significance of Texas and
4 Juneteenth. I know about poll taxes and literacy tests.

5 Although I served my country honorably and
6 am a disabled veteran, I've been the victim of both
7 blatant and both subtle racism, and I'm sad to see it
8 expressed almost daily in the nation I love. So I
9 cannot ignore the elephant in the living room. I'll
10 leave the rest of my comments for you to read.

11 CHAIRMAN SMITH: Any questions, members,
12 for Ms. Johnson? Thank you very much.

13 MS. JOHNSON: Thank you.

14 CHAIRMAN SMITH: At this time the chair
15 calls Brent -- I'm sorry -- Munhofen.

16 MR. MUNHOFEN: Munhofen.

17 CHAIRMAN SMITH: I'm going blind. You
18 wrote it clearly. Tell me who you represent -- You are
19 testifying in favor of Senate Bill 362. Give me your
20 name and who you represent.

21 MR. MUNHOFEN: My name's Brent Munhofen,
22 and I'm representing the Immigration Reform Coalition of
23 Texas as well as myself. First of all, I wanted to ask
24 you a question about this bill just for clarification
25 purposes. The only thing we're changing over current



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007073

TX_00034215

USA_00021955

Hearing - Volume 3

April 7, 2009

499

1 law is we're adding one additional piece of alternative
2 identification, right?

3 CHAIRMAN SMITH: There's some question,
4 I'll tell you, among the members, and I'm not -- I'm not
5 entirely sure, but there's some question about whether
6 or not the standard that the poll worker would use to
7 look that that identification has changed. I'm not
8 entirely clear on that. But there may be -- there may
9 be some legitimacy to that.

10 MR. MUNHOFEN: Okay. I just --

11 CHAIRMAN SMITH: Otherwise, in general,
12 you're correct.

13 MR. MUNHOFEN: And I just want to point
14 that out because I've looked through the bills and it
15 appears to me that that's primarily what's been changed
16 on it.

17 CHAIRMAN SMITH: I think that's right.

18 MR. MUNHOFEN: So I'm a little confused by
19 all of the doomsday scenarios about voter
20 disenfranchisement, the references to the poll tax and
21 these various different issues. I don't want to
22 minimize them, but I don't see the relevance of that to
23 what we're -- what's in SB362. So that being said, we
24 do support Voter ID. In fact, we support using a
25 government issued photo ID at the polls to identify the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007074

TX_00034216

USA_00021956

Hearing - Volume 3

April 7, 2009

500

1 voters.

2 And one aspect of the voter irregularities
3 or election fraud that's been brought up that's kind of
4 a road that's a little less traveled, but in the last
5 election there were a number of states where voter
6 irregularities were picked up and a number of studies
7 have been done. California, Connecticut, Florida,
8 Indiana, Mississippi, Rhode Island, New York and
9 Tennessee, to name some of them, and if I may, I just
10 want to cite a couple of examples.

11 In Ohio, WHIO-TV in Dayton did an
12 investigation in October of last year, and they
13 identified 3,856 deceased voters that were still
14 registered. Of them, 22 of them managed to vote. Nancy
15 Watts of Beaver Creek, Ohio, had been deceased for
16 two years, but yet she still managed to vote in the
17 March 4th primary. That's one example. There's also
18 examples from California and New York, as I indicated.

19 So the reason I bring these up is it's
20 been suggested, and I think even Senator Watson
21 suggested that Voter ID is a -- to quote him, "A
22 solution looking for a problem." And I think that's a
23 little disingenuous in my opinion because with a lot of
24 elections being decided by 20 votes or less with
25 Representative Brown as an example, I think it's very



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007075

TX_00034217

USA_00021957

Hearing - Volume 3

April 7, 2009

501

1 important that we ensure the integrity. So, I mean,
2 it's important to make sure that everyone that's
3 eligible to vote is allowed to vote. But what's equally
4 important is knowing that legitimate votes won't be
5 canceled out by someone that's not eligible. So thank
6 you for your time.

7 CHAIRMAN SMITH: Thank you. Any
8 questions? Representative Brown?

9 REPRESENTATIVE BROWN: I don't think so,
10 but I sure appreciate your staying so late and
11 testifying.

12 MR. MUNHOFEN: You're welcome.

13 CHAIRMAN SMITH: Thank you very much.
14 Appreciate it.

15 At this time the chair calls Roman Pena?
16 Front row. Now, you are with LULAC, aren't you? I'm
17 kind of wondering about you.

18 MR. PENA: Both LULAC and GI Forum, in
19 which this lady just spoke against us. You know,
20 she's -- she's the wife of one of the founding LULAC
21 presidents, and I'm surprised that she has that kind of
22 attitude.

23 CHAIRMAN SMITH: Okay. Please -- Please
24 state your name.

25 MR. PENA: My name is Roman Pena.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007076

TX_00034218

USA_00021958

Hearing - Volume 3

April 7, 2009

502

1 CHAIRMAN SMITH: Who you represent.

2 MR. PENA: And I represent LULAC of Texas
3 and myself.

4 CHAIRMAN SMITH: You are testifying
5 against Senate Bill 362.

6 MR. PENA: Yes. I'm testifying against
7 the bill.

8 CHAIRMAN SMITH: Please proceed.

9 MR. PENA: As you have already heard
10 testimony from our state director, LULAC stands against
11 this Bill 362 for the reasons that he has stated in his
12 testimony. I am the chairman of the Texas LULAC
13 Veterans Affairs Committee, and my reason being here and
14 why I stayed -- You know, you almost beat me to it. I
15 almost had to leave, but I says I'm going to wait him
16 out. I know that your mind thought has already been
17 made. You're for the bill.

18 CHAIRMAN SMITH: No, no, no, no. We're in
19 the process of drafting a bill.

20 MR. PENA: I think the way you sound you
21 are already for it. You know, I got to give you guys,
22 Republicans, credit for what you did here today. You
23 brought all your Republican base to give you testimony
24 and you dressed them in red. So that's -- God ought to
25 give you a little bit of credit for that -- for



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007077

TX_00034219

USA_00021959

1 organizing that because you're the chairman of this
2 committee. But what I wanted to tell you today, you
3 know, is that us Democrats and us did not think that
4 this was -- this important of this committee.
5 Therefore, our state Democratic party probably didn't do
6 anything to bring the Democrats down here.

7 We as an organization, a civic
8 organization of which is LULAC and GI Forum, have -- as
9 you know, have fought very hard to can what we have here
10 today. You know, what we've got here today has not been
11 a privilege like state representative over there. This
12 was done by a lot of work and a lot of fights in the
13 streets with the various factions of the conservative
14 elements of the State of Texas and this country for that
15 matter. So it's not something that we are going to take
16 lightly.

17 You know, this lady here, one of my senior
18 citizens that already left, I wanted them -- I wanted
19 for them to stay here that said that last night you
20 almost had a little fist fight among yourselves. Well,
21 if you recall, you know, if you read history, there was
22 a Republican controlled house and state sometime in the
23 reconstruction days, and if you recall what happened
24 there, you know, that didn't just come out to fist
25 fights. It came out to some real heavy effort on the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007078

TX_00034220

USA_00021960

Hearing - Volume 3

April 7, 2009

504

1 part of both parties to -- and you know what happened
2 after that. After that, a hundred years it took before
3 the Republicans came back into some kind of power.

4 Because of the oppression that was being
5 put for the citizens at that time and probably the
6 oppression was not so much against what you are steering
7 in this bill. See, this bill -- the intent of this bill
8 as you see it is to -- is to really deter the voters
9 that -- that come out in great numbers here in the last
10 election. You know, this last election showed us that
11 there is a way to get the people out to vote, and -- and
12 in order -- and the Democrats did very well, as you
13 know. The Republicans did well in Texas.

14 Well, today, you are trying to just put
15 something in the mill as an obstacle to get this
16 progression going, and we at LULAC and GI Forum are not
17 going to sit by, you know, and just take it in sleight
18 and say nothing. It's like our Texas state director
19 said earlier, he said that -- that if this bill passes,
20 we're not just going to stay silent and not say anything
21 about this. This is a direct, you would say, intent by
22 very strong forces in Texas to keep control of what you
23 have, and it's very sad because you should not fear --
24 you should not fear us.

25 You know, we can be easily divided --



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007079

TX_00034221

USA_00021961

Hearing - Volume 3

April 7, 2009

505

1 Mr. Smith -- Representative Smith, we can be easily
2 divided, let me tell you. You don't have to fear us
3 that we are going to take over the State of Texas
4 because you know our history. You know we are very
5 independent minded. So this thing that you are trying
6 to push through is just something of another obstacle,
7 another, you would say, barrier to try to keep certain
8 citizens from being part of the electoral process, and
9 you know who they are because you -- I don't know if you
10 heard the senate testimony. We stayed there till
11 2 o'clock in the morning. We left because the hearing
12 was still going on.

13 There was great testimony from people like
14 we are doing here. There's great testimony. This is
15 America and democracy in the making. You know, you hear
16 all kinds of opinions, and when you've heard over and
17 over that there is no proof anywhere where somebody
18 impersonated another voter, there's not one --

19 CHAIRMAN SMITH: That's not true, but go
20 ahead.

21 MR. PENA: No, but --

22 CHAIRMAN SMITH: The time is up.

23 MR. PENA: You haven't heard -- Let me
24 just say -- I'm going to share with you a little bit
25 that I have experienced. You see, I was a monitor -- a



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007080

TX_00034222

USA_00021962

Hearing - Volume 3

April 7, 2009

506

1 counter in the elections of not this last one, the
2 previous one. And you know -- you know where the
3 biggest fraud is? This is fraud. It's in the mail
4 ballots.

5 CHAIRMAN SMITH: Everybody understands
6 that.

7 MR. PENA: You know where the mail
8 ballots -- the biggest fraud is? In the military. You
9 need to examine the military ballot. Let me tell you,
10 we were the monitors there at the electoral committee
11 there where we counted all the ballots that were coming
12 in, all the mail ballots coming in in the early vote.
13 There was 17,000.

14 CHAIRMAN SMITH: I'm going to have to cut
15 you off in just a minute, sir.

16 MR. PENA: Well, if somebody would like to
17 ask me a question, I would be willing to answer the
18 question.

19 CHAIRMAN SMITH: Sure. Go ahead and
20 finish your comment, if you want to.

21 MR. PENA: Okay. There were 17,000
22 ballots that came in from Iraq in a big bag with a
23 envelope -- white envelope. Do you know that all of
24 them -- because we went and checked the signatures
25 because that's how you can verify -- the signature and



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007081

TX_00034223

USA_00021963

Hearing - Volume 3

April 7, 2009

507

1 the -- the request for the ballot has to match the
2 signature of the ballot that you vote in. Well, do you
3 know that all the ballots -- It's like a -- like a
4 sergeant -- first class sergeant signed all the requests
5 and all the ballots. The same signature was there for
6 that particular vote. Probably that poor soldier out
7 there fighting didn't even know he voted.

8 Let me tell you, 17,000 of those 15,000
9 were Republican, so someone has a connection to the
10 military ballot, and that's the one you've got to check
11 because that is a big, big fraud, and that's what wins
12 elections without you counting the vote. It just comes
13 out in no place all of the sudden. What happened in
14 Ohio, you know, they thought the Democrats had won on
15 the exit vote. What happened? The Republicans won. So
16 that's what you need to look in the committee, you know,
17 because I think Todd has already made his mind. You
18 know, he's going to follow the Republicans the way they
19 did in the senate.

20 So thank you very much, and I hope that
21 I'm wrong. I hope I'm wrong. I'll come visit you if
22 I'm wrong, and I'll apologize.

23 CHAIRMAN SMITH: I've been referred to as
24 a Tom DeLay partisan thug just for your information.
25 Mr. Pena?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007082

TX_00034224

USA_00021964

Hearing - Volume 3

April 7, 2009

508

1 VICE-CHAIRMAN PENA: How are you doing?

2 MR. PENA: Fine.

3 VICE-CHAIRMAN PENA: You are here for GI
4 Forum and LULAC; is that right?

5 MR. PENA: Yes, sir.

6 VICE-CHAIRMAN PENA: Okay. I didn't want
7 you to go away without hearing it from one of us that we
8 appreciate the work that LULAC has done and the GI
9 Forum. I'm a member of both, so I guess you and I are
10 both members of the communist party.

11 MR. PENA: Well, you know, this lady here,
12 I don't know where in the world she came from, but
13 wherever it is, I think that the chairman gave her more
14 time than she should have had because I think she spoke
15 for 20 minutes. She was putting us down. She's overly
16 tough. I want to hear that.

17 VICE-CHAIRMAN PENA: It was all planned,
18 Mr. Pena.

19 CHAIRMAN SMITH: It seemed like a long
20 time to you, didn't it?

21 MR. PENA: It did. It did. Believe me.
22 But, you know -- But, you know, that we are only
23 carrying and passing the kindness that happened years
24 ago. LULAC was organized in 1929 for the purpose of
25 bringing about justice for all citizens of Texas.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007083

TX_00034225

USA_00021965

Hearing - Volume 3

April 7, 2009

509

1 VICE-CHAIRMAN PENA: Let me just say one
2 last thing because I just --

3 MR. PENA: Okay.

4 VICE-CHAIRMAN PENA: I like to make points
5 about history because remember back then it was
6 conservative Democrats keeping Hispanics down?

7 MR. PENA: Correct.

8 VICE-CHAIRMAN PENA: Okay. So it's --
9 it's not always Republicans, sometimes it's Democrats.

10 MR. PENA: No. At that time it was
11 Democrats, you are correct, but all the conservative
12 Democrats -- when -- When Lyndon Johnson signed the
13 Voting Rights Act, they all jumped to the Republican
14 party. Now, they're the Republicans. All of those guys
15 that were here testified as Republican, they're former
16 Democrats.

17 VICE-CHAIRMAN PENA: Okay. Well, listen,
18 I just wanted to say something in appreciation for LULAC
19 and GI Forum.

20 MR. PENA: Thank you.

21 VICE-CHAIRMAN PENA: And thank you very
22 much for your time.

23 MR. PENA: Thank you. You all are doing a
24 good job. I'm sure --

25 CHAIRMAN SMITH: All of us?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007084

TX_00034226

USA_00021966

Hearing - Volume 3

April 7, 2009

510

1 MR. PENA: Well Todd, Pena, I'm going to
2 check with him, see how you vote on this issue.

3 CHAIRMAN SMITH: All right. Thank you.
4 We appreciate it very much. All right.

5 The chair calls Laurel Allbritton. Not
6 here. Will show her as not testifying, but in favor of
7 Senate Bill 362.

8 The chair calls Alma Holiday. Not here.
9 Not testifying, but will be shown against Senate Bill
10 362.

11 Louise Whiteford? I don't see any
12 movement, so we're showing her as not testifying and in
13 favor of Senate Bill 362.

14 Alfredo Esparza? Don't see movement. We
15 are showing him against Senate Bill 362 and not
16 testifying.

17 Rebecca Forest? No movement. We're
18 showing her as for Senate Bill 362, but not testifying.

19 Bill Stout? Showing him representing the
20 Green Party of Texas being against Senate Bill 362 and
21 not testifying.

22 Maria Martinez, come on down. You are
23 representing IRCOT. Tell us who that is. You're for
24 Senate Bill 362.

25 MS. MARTINEZ: My name is Maria Martinez.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007085

TX_00034227

USA_00021967

Hearing - Volume 3

April 7, 2009

511

1 I represent the Immigration and Reform Coalition of
2 Texas as well as Texans for Immigration Reform and
3 Central Texans for Secured Borders.

4 CHAIRMAN SMITH: Okay.

5 MS. MARTINEZ: We are in favor of House
6 Bill 125 and Senate Bill 362.

7 CHAIRMAN SMITH: This is -- okay -- Senate
8 Bill 362. Please direct your attention just to Senate
9 Bill 362.

10 MS. MARTINEZ: Specifically?

11 CHAIRMAN SMITH: We're going to have a
12 separate hearing, believe it or not, when this one's
13 finished --

14 MS. MARTINEZ: Oh, God.

15 CHAIRMAN SMITH: -- on that bill along
16 with others.

17 MS. MARTINEZ: Tonight?

18 CHAIRMAN SMITH: Yes. Get some coffee.

19 MS. MARTINEZ: I like my caffeine cold,
20 but --

21 CHAIRMAN SMITH: Okay. So 362.

22 MS. MARTINEZ: Anyway, in any event, there
23 have been a lot of very eloquent speakers, and really
24 what I wanted to stress was the fact that I -- with the
25 name like Maria Martinez, you can probably imagine the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007086

TX_00034228

USA_00021968

Hearing - Volume 3

April 7, 2009

512

1 kind of problems that a person with that name would have
2 with identification theft. So for me personally, it's
3 important that we have integrity of the process, so I
4 want to be sure that, you know, just like from my credit
5 report, you know, there will be possibly, you know,
6 umpteen numbers of people using my identification all
7 over the country, which there have been at times.

8 So what I'm -- You know, just a very small
9 point is we need to have a system where I can be assured
10 of the fact that my vote is going to count, the fact
11 that, you know, as a person with that type of name there
12 is going to be -- there won't be a dilution of my notes,
13 and we won't have, you know, other people trying to vote
14 in my place. So I think that's a really -- a really
15 strong point that no one has mentioned before.

16 Also, I should say that we -- we believe
17 that there have been many instances as you've heard of
18 some situations that have become apparent. For
19 instance, the gentleman from Bell County, but what I
20 would point out is how many did he not catch? How many
21 people just went through and voted? I mean, people have
22 said that there are so many -- that there aren't any
23 instances -- pardon me -- but I would say on the
24 contrary. It's quite possible that there were. For
25 everyone that was caught, there may be 10 or 20 that



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007087

TX_00034229

USA_00021969

Hearing - Volume 3

April 7, 2009

513

1 haven't been. So integrity -- we would love to see some
2 integrity and -- and a secure feeling that the process
3 works, and it works effectively for everyone, so no one
4 has the potential for their votes being diluted by a
5 person voting that is not appropriate.

6 CHAIRMAN SMITH: Thank you very much. Any
7 questions, members?

8 MS. MARTINEZ: Thank you.

9 CHAIRMAN SMITH: Thank you very much.

10 MS. MARTINEZ: I'll see you shortly on
11 125.

12 CHAIRMAN SMITH: Okay. All right. We're
13 weeding them out at this point.

14 Sharon Shepard? No movement. Not
15 testifying, but is against Senate Bill 362, and she was
16 going to speak on behalf of Group Color of Change.

17 Derek Ryan, Republican Party of Texas is
18 for the bill, but will not be shown testifying.

19 David Harris on behalf of himself against
20 Senate Bill 362 will not be shown testifying.

21 Sheila Dean indicated that she would
22 testify. You here? Okay. Testifying on behalf of
23 those opposed to this legislation associated with 511
24 Campaign -- I'll let you explain that -- testifying
25 against Senate Bill 362. Oh, I'm going to have to have



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007088

TX_00034230

USA_00021970

Hearing - Volume 3

April 7, 2009

514

1 you sign this. You forgot to sign the witness --

2 MS. DEAN: Did I? I'm sorry.

3 CHAIRMAN SMITH: -- affidavit.

4 MS. DEAN: I might have been in a hurry.

5 There was actually someone directly ahead of me that was

6 talking about Real ID and that's -- Okay. Oh, thank

7 you. No? I'm not known for being detail oriented.

8 CHAIRMAN SMITH: That's okay. Please
9 state your name and who you represent. You have some
10 stuff for us?

11 MS. DEAN: I do.

12 CHAIRMAN SMITH: Okay. Want to pass it
13 out?

14 MS. DEAN: My name is Sheila Dean, and I
15 I'm representing the 511 Campaign, Texans Against Real
16 ID. I'm referring to the September of 2005 Carter Baker
17 report on the commission of the Federal election reform
18 which has been cited to the committee earlier in the
19 day, much much earlier in the day. I'm going to refer
20 directly to Page 19 where, as quoted, the Real ID
21 cards -- the states use Real ID cards for voting
22 purposes because of the National Voter Registration --
23 National Voter Registration Act establishing a
24 connection between obtaining a driver's license and
25 registering to vote. Okay. That connection lies



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007089

TX_00034231

USA_00021971

Hearing - Volume 3

April 7, 2009

515

1 probably with the pragmatic responsibilities of AAMVA,
2 the American Association of Motor Vehicle Administrators
3 and their databases.

4 As Voter ID pertains to the Federal Real
5 ID Act, we are opposed to it due to the expansion of
6 powers delegated to the Department of Homeland Security
7 to determine identity for Federal purposes. Federal ID
8 is under the oversight of a national security agency.
9 Voting is not a matter of national security last time I
10 checked, nor should identity be commandeered to be so.

11 Okay. Driver's license is necessary to
12 operate a vehicle. We ask that photo ID be a voluntary
13 measure, a concession, but not mandatory, and while we
14 have the benefit of your audience, we ask that you also
15 reject the Federal Real ID Act because it is a voluntary
16 inadequately funded and an inadequate form of identity
17 that imperils the public trust.

18 I might add that the -- if you are aware
19 of the fusion centers, the information analysis centers,
20 as data aggregates for voter information that goes
21 through AAMVA, that that information has been delegated
22 to them through AAMVA. So voter rolls information or
23 any attributes of identity would go to AAMVA and then to
24 the information analysis centers.

25 Okay. And how that may translate, I'm



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007090

TX_00034232

USA_00021972

Hearing - Volume 3

April 7, 2009

516

1 going to give you a scenario that came up in press as of
2 recently. In Missouri, there was a -- there was some
3 sort of memo or directive given to the local police
4 enforcement to target third -- third party voter
5 constituents associated with Ron Paul, the constitution
6 party, Chuck Baldwin, and one other third party voter.
7 Might as well have been Cynthia McKinney or any third
8 party. They were directly profiled as terrorist threats
9 based on their party affiliation.

10 And so if voter information goes to a
11 national security administration database and then
12 somehow is circumvented to become a retroactive tool to
13 target people, then that is not a judicious use of voter
14 identity, and I wanted to make sure that that was clear
15 and on the record.

16 And that I would ask this committee to
17 please specifically pay special attention to the use of
18 Real ID and decouple that concept with any relationship
19 with Voter ID --

20 CHAIRMAN SMITH: Okay.

21 MS. DEAN: -- if that's possible.

22 CHAIRMAN SMITH: My sense is that there's
23 not a lot of movement on the Real ID issue.

24 MS. DEAN: We hope not.

25 CHAIRMAN SMITH: Okay. Any questions,



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007091

TX_00034233

USA_00021973

Hearing - Volume 3

April 7, 2009

517

1 members? Thank you very much.

2 MS. DEAN: Thank you.

3 CHAIRMAN SMITH: At this time the chair
4 calls Patti Edelman, representing yourself and against
5 Senate Bill 362.

6 MS. EDELMAN: Mr. Chair and members of the
7 committee, my name is --

8 CHAIRMAN SMITH: State your name.

9 MS. EDELMAN: -- Patti Edelman. I live
10 here in Austin.

11 CHAIRMAN SMITH: Representing?

12 MS. EDELMAN: Me.

13 CHAIRMAN SMITH: Good. Thank you.
14 Proceed.

15 MS. EDELMAN: And I guess other citizens
16 who might agree with me. I have served in the capacity
17 as an election official and also as a -- what's the word
18 I'm looking for -- all of the sudden -- It's so late.
19 I've worked as an election judge, and in that time I
20 have never encountered any voter fraud. In every
21 instance that has been mentioned here today, of -- of
22 things that have happened to different people and
23 instances where somebody might have done something
24 untoward while they were voting, voting illegally,
25 voting with someone else's ID or being persuaded to vote



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007092

TX_00034234

USA_00021974

Hearing - Volume 3

April 7, 2009

518

1 by someone when in a way that they hadn't intended, all
2 of these things are covered by other laws that they
3 could be pursued, that -- other laws that would cover
4 them for the illegal act -- these illegal acts.

5 People have talked about mail-in ballots
6 as being a problem, and, yes, they are a problem in
7 Livingston in Polk County. For instance, there are
8 12,000 people registered to vote at 101 Rainbow Drive,
9 and they vote and most of them vote Republican, and most
10 of them don't live in Texas, and I know that you all
11 have had that discussed.

12 Two last things I wanted to say. The one
13 issue that you all haven't touched upon and most people
14 haven't talked about is what it's going to take to
15 inform voters about the -- about the changes in the law.
16 The State of Georgia is about tenth the size of the
17 State of Texas with one major media market, and in Texas
18 we have five major media markets and probably five
19 smaller media markets. They've set aside \$1.5 million
20 to educate their voters. If we -- if we take that and
21 multiply it by the State of Texas and the media markets
22 we have, we're looking at somewhere between five and
23 \$20 million to educate voters to the changes in the
24 registration and the ID required. And I think that in
25 the time in these -- in these times where we are



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007093

TX_00034235

USA_00021975

1 strapped for cash and we're trying to figure out how to
2 fund health and all these other things for our citizens,
3 that wasting money on these -- this issue, whether it's
4 really not an issue, is the responsibility of this house
5 and of the senate.

6 Lastly, I want to show you a picture, and
7 if you -- if you ask me as an election judge whether
8 this man matches the man who would be in front of me
9 today with this -- this picture ID, I think that as -- I
10 would have a really hard time saying that this might be
11 the same man. And, I'm sorry, but if you leave it to
12 the people who are election judges across this state --
13 if you leave it to people who are election judges across
14 this state to determine if the -- if the picture on an
15 ID is the same one as the voters standing before them --

16 CHAIRMAN SMITH: We all agree that we do
17 not let felons vote.

18 MS. EDELMAN: Well, this is -- I realize
19 that it's late and it's -- it's comical, but most of the
20 election judges in this state are at best 50 years old
21 and at worst 85 or older, and for them to turn the voter
22 away because they have a picture and can't really be
23 sure if that's the person that's holding the ID, I think
24 that it's unfair to voters, and so you're trying to fix
25 a problem that doesn't really exist. And if it did --



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007094

TX_00034236

USA_00021976

Hearing - Volume 3

April 7, 2009

520

1 if it does, then our Attorney General should be taking
2 people in right and left and prosecuting them for the
3 voter fraud that you pretend exists in this state.
4 Thank you.

5 CHAIRMAN SMITH: Hold on just a minute.
6 Questions, members? Anybody?

7 UNIDENTIFIED SPEAKER: I just -- You
8 didn't take our laughing to diminish the seriousness of
9 your testimony.

10 MS. EDELMAN: No, sir, I didn't.

11 UNIDENTIFIED SPEAKER: Okay. Good. Good.
12 Because --

13 MS. EDELMAN: Because I know you wouldn't
14 do that.

15 UNIDENTIFIED SPEAKER: Well, exactly.
16 And --

17 MS. EDELMAN: Now, maybe Mr. Smith might,
18 but --

19 UNIDENTIFIED SPEAKER: Well, I don't think
20 he would either, but I'm really glad you showed up.

21 CHAIRMAN SMITH: This is Strauss's fault.

22 UNIDENTIFIED SPEAKER: You showed us
23 representative -- I'm glad you showed us that picture
24 because that's the most compelling visual evidence I've
25 seen today about the difficulty in identifying people.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007095

TX_00034237

USA_00021977

Hearing - Volume 3

April 7, 2009

521

1 MS. EDELMAN: You can all go home now.
2 Thank you.

3 UNIDENTIFIED SPEAKER: Can we have that
4 entered into the record?

5 MS. EDELMAN: Absolutely. I'm willing --
6 I am willing to submit this.

7 UNIDENTIFIED SPEAKER: No objection.

8 UNIDENTIFIED SPEAKER: Can we have that
9 entered into the record?

10 UNIDENTIFIED SPEAKER: We are going to
11 create a record for this document.

12 MS. EDELMAN: And I hope that if he does
13 return and even if he doesn't want to claim it, you'll
14 have him sign it.

15 CHAIRMAN SMITH: Thank you, Ms. Edelman.

16 MS. EDELMAN: Thank you.

17 CHAIRMAN SMITH: Appreciate it. At this
18 time the chair calls Vickie Karp on behalf of Vote
19 Rescue testifying against Senate Bill 362. Please state
20 your name and who you represent.

21 MS. KARP: I'm Vickie Karp. I'm here on
22 behalf of Rescue and our Coalition of Texans for
23 Reelections. Chairman Smith, Vice-chairman Pena and
24 committee members, voter fraud is a molehill, not a
25 mountain of fraud. I quote Allen Lichtman, a consultant



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquiresolutions.com

JA_007096

TX_00034238

USA_00021978

1 on voting rights and expert witness in 75 voting rights
2 cases who found not a single fraudulent vote among the
3 1.4 million ballots cast in a Maryland election in 1998
4 which he was asked to investigate.

5 Many experts here and elsewhere conclude
6 and we agree that voter fraud is not a significant
7 problem nationally and certainly not in Texas. I would
8 like to instead focus on what is the very real threat to
9 our democratic process, the problem of election fraud
10 made possible with the use of electronic voting machines
11 controlled by corporate vendors using software that is
12 so secret not even our election officials are allowed to
13 look at it, all of which really amounts to no more than
14 secret vote counting.

15 So for my remaining time this evening,
16 I'll cite just a fraction of the available evidence
17 proving that none of the three major vendors' voting
18 machine equipment being used in Texas today is safe from
19 undetectable fraud. The Diebold Company, now called
20 Premier Election Systems, has had two types of their
21 voting systems successfully hacked in minutes both by
22 expert teams brought in by the nonprofit group Black Box
23 Voting, as well as by Princeton University computer
24 experts. The first hack of Diebold, optical scanners
25 used to count paper ballots prove that the scanners were



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 512.328.8139

Suite 220
3101 Bee Caves Road
Austin, TX 78746
www.esquireolutions.com

JA_007097

TX_00034239

USA_00021979